

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**CIVIL APPELLATE JURISDICTION**

**FIRST APPEAL NO. 760 OF 2014**

Sushma Shantaram Golambade  
Age about 49 years, Occupation : Service,  
Residing at : Silver Residency, 'A' Wing, Room No.401,  
Lal Chowki, Agra Road, Kalyan (W),  
District Thane.

Appellant

Versus

1. Bharat Jadhavji Vora (H.U.F.)  
Adult, Occupation : Business,  
Residing at Patlmal Highway No.8, Shirsad, Virar,  
Dist. Thane, Vasai, Tal.  
(Owner of Motor Tractor No.MH-04-F-3437).
2. The new India Assurance Company Limited,  
Through its Divisional Manager, having their office  
at Guru Govind Niwas, Murbad Road,  
Opp. Purnima Theatre, Kalyan.  
(Insurer of Motor Tractor No.MH-04-F-3437).

Respondent  
No.1/  
Original  
Opposite Party

Respondent  
No.2/  
Original Insurer

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Ms. Rina Kundu, Advocate for the Appellant.  
Ms. Jyoti Bajpayee, Advocate for Respondent No.2.  
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**CORAM : SHIVKUMAR DIGE, J.**  
**DATE : 10<sup>th</sup> JANUARY, 2024.**

**JUDGMENT :**

1. By way of this appeal the appellant is seeking enhancement of compensation.
2. It is the contention of learned counsel for the appellant that due to accidental injuries appellant has suffered 35% permanent physical disability. While awarding compensation the Tribunal has awarded

compensation on lower side i.e. Rs.10,000/- for pain and suffering, Rs.25,000/- for medical expenses, Rs. 15,000/- for loss of income, which is not proper, hence requested to allow the appeal.

3. It is the contention of learned counsel for the respondent No.2 /Insurance Company that while awarding compensation, the Tribunal has considered all the aspects and on that basis compensation is awarded hence no interference required in it.

4. I have heard both the learned counsel. Perused the Judgment and Order passed by the Motor Accident Claims Tribunal, Kalyan (for short “**the Tribunal**”). Admittedly due to accidental injuries claimant has suffered 35% permanent partial disability. To prove the disability the claimant has examined Dr. Sujeet Jain. Respondent No.2/Insurance Company has not disputed the disability of the claimant. It appears from the record that, after the accident, claimant was admitted in hospital for three times due to accidental injuries caused to him. The claimant was working as a teacher and she was on leave from 08.05.2007 to 29.02.2008 for 10 months and for the said period no salary was given to her. To prove this fact the claimant has examined Mrs. Meena Bhadsavale, Head Mistresses of Captain Ravindra Madhav Oak High School, Kalyan where the claimant was working as a teacher. She has stated that after the accident, the claimant was on earned leave for 28 days from 15.06.2007 to

12.07.2007. Thereafter, again she was on leave from 13.07.2007 to 29.02.2008. However, the said leave period was without pay. The Certificate is at Exhibit-38. The monthly salary of claimant was Rs.17,000/- per month. Considering the evidence of PW-3 Mrs. Meena Bhadsavale, the claimant is entitled for salary of without pay leave period it comes to Rs.17,000/- X 10 = Rs.1,70,000/-. The Tribunal has not considered the medical bills of Wockhardt Hospital. Total of it comes to Rs.1,84,755/-. I am considering this amount for medical expenses.

The Tribunal has given amount of Rs.10,000/- for pain and suffering as claimant has suffered 35% disability hence, I am considering it Rs.50,000/-, the Tribunal has not given compensation for loss of amenities in life, I am considering it Rs.20,000/-. The Tribunal has not awarded compensation for special diet and conveyance, I am considering it Rs.20,000/-. Considering all these calculations, the claimant is entitled for following compensation:

| Sr. No. | Particulars                                                                                                              | Rs. | Entitlement |
|---------|--------------------------------------------------------------------------------------------------------------------------|-----|-------------|
| 1       | Pain and suffering                                                                                                       | Rs. | 50,000.00   |
| 2       | Loss of Income during treatment from 08.05.2007 to 29.02.2008 for 10 months @ Rs.17,000/- per month (17,000 X 10 months) | Rs. | 1,70,000.00 |
| 5       | Disability and loss of amenities                                                                                         | Rs. | 20,000.00   |
| 6       | Special Diet and Conveyance                                                                                              | Rs. | 20,000.00   |
| 7       | Medial Bills                                                                                                             | Rs. | 1,84,755.00 |

|  |                  |     |                    |
|--|------------------|-----|--------------------|
|  | <b>Total</b>     | Rs. | <b>4,44,755.00</b> |
|  | Tribunal awarded | Rs. | 1,00,000.00        |
|  | Enhanced amount  | Rs. | <b>3,44,755.00</b> |

The claimants are entitled for the enhanced amount of Rs. 3,44,755/-.

5. In view of above, I pass following Order:

**ORDER**

- i. The appeal is allowed.
- ii. The appellant / claimant is entitled for an enhanced amount of Rs. 3,44,755/- @ 7.5% interest per annum from the date of filing of the claim petition till the realisation of the amount.
- iii. The respondent/Insurance Company shall deposit enhanced amount along with interest within six weeks after receipt of the order.
- iv. The appellant is permitted to withdraw the enhanced amount along with interest accrued thereon.

6. The appeal is allowed.

(SHIVKUMAR DIGE, J.)