

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION**

FIRST APPEAL NO. 714 OF 2006

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Shatrughan Pralhad Ghude	)	
Age: 50 years, Occupation: Business	)	
R/at Ramabai Ambedkar Nagar,	)	
Near Siddheshwar Talao,	)	
Khopat, Thane	)	Appellant (Orig. Applicant)

Versus

1. Amarpreet Singh Sundersingh	)	Matter stand
Bldg. No.15, C/5, Sector No.5,	)	dismissed as per
C. B. D. Navi Mumbai, Dist. Thane	)	order 29.6.2010
		Passed by Reg Jud.-I
2. The New India Insurance Co. Ltd.	)	
Shiv Krupa Commercial Complex,	)	
Naupada, Gokhale Road, Thane	)	
3. Suryakant Pralhad Ghule,	)	Matter stand
Since deceased his Lrs.	)	Dismissed as
Ramabai Ambedkar Nagar,	)	per order dated
Near Siddheshwar Talao,	)	29.6.2010 passed
Khopat, Thane	)	by Reg. Jud-I

3 (a) Vimal Suryakant Ghule)

Age: 67 years, Occ: Nil.)

3(b) Pandurang Suryakant Ghule)

Age: 38, Occ: Services)

Both 3(a) and 3(b) are)

residing at Flat No. 304,)

D, Ronak Park, Kokani Pada)

Upvan, Thane (W).)

4. The Oriental Insurance Co. Ltd.)

Divisional Office Thane, Arjun)

Towers, 3rd Floork, Ghokhale Road,)

Thane.)

....Respondent

(Orig. Respondents)

Mr. Ramdas Shelke A/W Mr. Namdeo S. Metakari, Advocate for the Appellant.

Mr. D. S. Joshi i/b Mr. Indrajeet R. Kulkarni, Advocate for the Respondent No.2.

Ms. Poonam Mital, Advocate for the Respondent No.4.

CORAM : SHIVKUMAR DIGE, J.

DATE : 24th APRIL, 2024.

Oral Judgment :

1. By way of this appeal, the Claimant is seeking enhancement of compensation.

2. It is contention of learned counsel for the Appellant/Claimant that due to accidental injuries, the Claimant has suffered 50% permanent physical disability though, it is 50% permanent physical disability, but functional disability is 100 % but Tribunal has not considered this fact and has awarded compensation on lower side. Learned counsel further submitted that the Tribunal has not awarded future prospects. The amount for loss of amenities in life and amount under other heads as well as amount for future earning is not awarded by the Tribunal. Hence, requested to allow the Appeal.

3. It is contention of learned counsel for the Respondent No.2 that no evidence is produced on record to prove the disability. The Tribunal has considered all the aspects while passing the judgment and order, no interference required in it.

4. Learned counsel for the Respondent No.4 submits that appropriate order be passed.

5. I have heard all learned counsel. Perused judgment and order passed by Motor Accident Claims Tribunal, Thane (for short

“the Tribunal”).

6. It is claimant's case that due to accidental injuries he has suffered 50% permanent physical disability but the functional disability is 100%. The disability of the Claimant has not been challenged by the insurance company hence, I am considering the same disability.

7. It is claimant's case that he was Mathadi worker and used to earn Rs.4,000/- to Rs.5,000/- per month. While awarding compensation the Tribunal has not considered monthly income of the claimant nor awarded loss of income and future prospects. It has come on record that after the accident he is unable to do any work and his functional disability is 100%. Hence, claimant is entitled for loss of earning and future prospects. The Tribunal has awarded Rs.25,000/- for pain and suffering. In my view, Claimant was mathadi worker, he has suffered 50% permanent physical disability, his functional disability 100%. Hence, I am considering Rs.1,00,000/- for pain and suffering. The Tribunal has awarded medical expenses of Rs.30,000/- it is proper. The Tribunal has not awarded compensation for conveyance, I am considering at Rs.20,000/-. As claimant was admitted in various hospital, the

Tribunal has not awarded amount for special diet, I am considering it at Rs.20,000/- as he was bed ridden for couple of days. The Tribunal has awarded Rs.50,000/- for loss of amenities in life, I am considering it at Rs.1,00,000/-. The Tribunal has not awarded compensation for attendant, I am considering at Rs.20,000/-. The Tribunal has not awarded loss of expectation of life, I am considering at Rs.1,00,000/-.

8. Considering above calculations, the claimant is entitled for following compensation.

Monthly income	Rs.4,500/-
Annual Income	Rs.54,000/-
Multiplier X 14	7,56,000/-
Pain and suffering	Rs.1,00,000/-
Medical Expenses	Rs.30,000/-
Conveyance	Rs.20,000/-
Special diet	Rs.20,000/-
Loss of amenities	Rs.1,00,000/-
Attendants	Rs.20,000/-
Loss of expectation of life	Rs.1,00,000/-
Future Prospects (30%)	Rs.2,26,000/-
Total compensation	Rs.13,72,800/-
Less awarded by the Tribunal	Rs.1,05,000/-
Total Compensation	Rs.12,67,800/-

9. In view of above, I pass following order.

ORDER

- i. Appeal is allowed.
 - ii. The Claimant is entitled for enhanced compensation amount of Rs.12,67,800/- @ 7.5% interest per annum from the date of filing claim petition till realisation of the amount.
 - iii. The Tribunal has fixed liability of paying compensation of 75% of Respondent Nos.1 &2 and 25% of Respondent No.3 owner of tempo.
 - iv. Both the Respondent shall deposit the enhanced compensation amount along with accrued interest thereon, as per their share before the Tribunal within six weeks after receipt of the order.
 - v. The Claimant is permitted to withdraw the deposited amount along with accrued interest thereon.
 - vi. The Claimant shall pay the deficit Court fees, if any, on enhanced amount.
9. All pending applications, if any, stand disposed of.

(SHIVKUMAR DIGE, J.)