

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO. 1189 OF 2008

Deepak Dattatray Shivankar, Through his Legal Guardian father Shri Dattatray Khashaba Shivankar Age: 52 years, Occ: Service, R/o. Kshetramahuli, Tal: Satara	...	Appellant (Orig. Applicant)
versus		
General Manager, Maharashtra State Road Transport Corporation Vahatuk Bhavan Mumbai.		Respondent (Orig. Opponent)

Mr. Umesh Mankapure a/w Ms. Bhavika Shinde, Advocate for the Appellant.

Ms. P. M. Bhansali a/w Ms. Rajlaxmi Punjabi i/b Mr. G. S. Hegde & Associates, Advocate for the Respondent.

CORAM : SHIVKUMAR DIGE, J.

DATE : 6th MARCH, 2024.

Oral Judgment. :

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

2. It is the contention of learned counsel for the appellant/claimant that, at the time of the accident, the claimant was 13 year old. Due to accidental injuries, he has suffered 70% permanent physical disability. While calculating the compensation, the Tribunal has considered yearly income of the claimant at Rs.15,000/-, which is on lower side. Learned counsel further submitted that, due to accidental injuries, the right side body of the claimant is paralyzed and he has suffered loss of memory but while awarding compensation the Tribunal has not awarded compensation under non-pecuniary heads and future prospect are not awarded. Hence, requested to allow the appeal.

3. It is contention of learned counsel for the respondent-Corporation that while passing the judgment and order, the Tribunal has considered all the aspects, on that basis, the judgment and order is passed, which is legal and valid. Learned counsel further submitted that, at the time of the accident, the deceased was 13 year old. The income considered by the Tribunal is proper. Hence, requested to dismiss the appeal.

4. I have heard both learned counsel, perused the judgment and order passed by Motor Accident Claims Tribunal, Satara (for short "the Tribunal").

5. Admittedly, due to accidental injuries, the claimant has suffered permanent physical disability of 70% and the right side of his

body is paralyzed and he is suffering from loss of memory. While awarding compensation, the Tribunal has considered the income of the claimant at Rs.15000/- per annum and after considering 70% permanent physical disability, the Tribunal has considered it at Rs.10500/- per annum, in my view, it is on lower side. At the time of the accident, the claimant was 13 year old and he was studying in 7th standard. It has come on record that the right side of his body is paralyzed and he has suffered 70% permanent physical disability, which amount to 100% functional disability. Due to disability, he has to remain idle and he has to suffer pain of disability for his entire life, he cannot do anything in his future life, all his dreams have been obscured and he will remain burden on his family member. Considering these facts, I am considering Rs.6000/- as monthly notional income of the claimant.

5.1. The Tribunal has awarded Rs.10,000/- for special diet, attendance and conveyance, I am considering it at Rs.50,000/-. The Tribunal has awarded Rs.20,000/- for loss of amenities in life, I am considering it at Rs.1,00,000/-. The Tribunal has not awarded amount for pain and sufferings, I am considering it at Rs.3,00,000/-. The Tribunal has not awarded amount for marriage prospects, I am considering it at Rs.3,00,000/-. The Tribunal has not awarded amount for expectations in life, I am considering it at Rs.1,00,000/-.

5.2. In view of above, the claimants are entitled for following compensation :

Particulars	Rs.	Amount
Annual Income of the deceased (Rs.6000/- pm x 12)	Rs.	72000.00
40% future prospects	Rs.	28800.00
Total Income	Rs.	100800.00
Rs.100800/- x 18(multiplier)/Loss of Income	Rs.	1814400.00
Medical Expenses	Rs.	12319.00
Pain and Sufferings	Rs.	300000.00
Loss of Amenities in Life	Rs.	100000.00
Loss of Expectations in Life	Rs.	100000.00
Loss of Marriage Prospects	Rs.	300000.00
Special Diet, Conveyance and Attendance	Rs.	50000.00
Total Compensation.		2676719.00

The Tribunal has awarded Rs.2,40,000/-, if this amount is deducted from the amount of Rs. 26,76,719/- considered by this Court, it comes to Rs.24,36,719/-. The claimant is entitled for this amount.

6. In view of above, I pass the following order :

O R D E R

1. The appeal is allowed.
2. The claimant is entitled for enhanced compensation of Rs. 24,36.719/- @ 7.5% interest per annum from the date of filing claim petition till realisation of the amount.
3. Respondent No.1 - Corporation shall deposit the compensation amount along with accrued interest thereon within eight weeks from the receipt of this order.

4. The claimant is permitted to withdraw the deposited amount along with accrued interest thereon.
5. The claimant shall pay court fees on enhanced amount as per Rule.
7. Pending applications, if any, stand disposed of.

(SHIVKUMAR DIGE, J.)