

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

FIRST APPEAL NO. 349 OF 2021

Ravindra Shridhar Ghewari)
Age: 63 years, Occu: Nil)
R/o Plot No. 58, Govt. Colony,)
Vishrambag, Sangli)....Appellant
(Org. Claimant)

Versus

1. Uttam Ashok Salokhe)
Age: 40, Occ: Business)
R/o. 230 / BNR Grampanchayat Galli,)
Girgaon, Taluka-Karvir,)
District – Kolhapur,)

2. The Manager)
United India Insurance Co. Ltd,)
Plot No. 23, T.P.C. No.1, Aarsiddha Building,)
Near Shahu Mill, Bagal Chowk,)
Kolhapur.)....Respondents
(Org. Opponents)

Mr. Rahul Patil, Advocate for the Appellant.
Mr. Rahul Mehta i/b KMC Legal Venture, Advocate for the
Respondent No.2.

CORAM : SHIVKUMAR DIGE, J.

DATE : 14th FEBRUARY, 2024.

Oral Judgment. :

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

2. It is contention of learned counsel for the Appellant/Claimant that the Claimant has suffered 79% physical permanent disability due to accidental injuries but, the Tribunal has awarded compensation on lower side. Hence, requested to allow the Appeal.

3. It is contention of learned counsel for the Respondent No.2/Insurance Company that while passing order, the Tribunal has considered all the aspects and on that basis, the judgment and order is passed and no interference is required in it.

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

5. While dealing with the issue of disability the Tribunal has considered notional disability of the petitioner as 25%. In my view, it is erroneous. As PW-2 Dr. Vikrant Mugdam has stated that the Claimant was admitted in his hospital on 4th December, 2015 till 24th December, 2015. On 10th December, 2015 the surgery of left clarifide fracture open reduction planting and surgery of 2nd, 3rd & 4th fingers of left hand by fixing 'K' wire was carried out, on 14th December, 2015 surgery of his left thigh was done. After treating the Claimant, he has issued disability certificate of 79%. In my view, PW-2 is expert witness, who had treated the Claimant and issued disability certificate after examination of the Claimant hence, I am considering the disability of the Claimant as 79%. The Tribunal has considered annual income of the Claimant at Rs.3,11,317/- but the Tribunal has not awarded future prospects and loss of income. Though, the Claimant has suffered 79% disability, his functional disability is 100%. The Tribunal has awarded medical expenses at Rs.2,39,000/-. The evidence produced on record shows that medical expenses was Rs.2,66,615/- hence, I am considering this amount. The Tribunal has not considered loss of income. Due to the accidental injuries, the Claimant was admitted in hospital and he was taking the follow up

treatment hence, I am considering loss of income of 6 month i.e. Rs.1,55,658/-. The Tribunal has not awarded amount for loss of amenities in life hence, I am considering it at Rs.50,000/-. At the time of accident the Claimant was 58 years old. The Tribunal has considered Rs.1,00,000/- for pain and suffering hence, I am considering amount of Rs.2,00,000/-. The Tribunal has not awarded amount for special diet and conveyance, I am considering at Rs.50,000/-.

6. Considering the above calculations, the Claimant is entitled for following compensation.

Annual Income	Rs.3,11,317/-
Loss of earning capacity	Rs.2,45,940/-
Multiplier 9 (Rs.2,45,940/- X 9)	Rs.22,13,643/-
Loss of income during bed ridden	Rs.1,55,658/-
Expenditure incurred in hospital for medicine & hospital bill	Rs.2,66,615/-
Pain and suffering	Rs.2,00,000/-
Loss of amenities	Rs.50,000/-
Special diet and conveyance	Rs.50,000/-
Total compensation	Rs.29,35,916/-
Less awarded by the Tribunal	Rs.10,39,567/-
Enhanced amount	Rs.18,96,349/-

7. In views of above, I pass following order.

ORDER

- i. Appeal is allowed.
- ii. The Claimant is entitled for enhanced amount of **Rs.18,96,349/- @ 7.5% interest per annum** from the date of filing claim petition, till realization of the amount.
- iii. The respondent/insurance company shall deposit the enhanced amount along with accrued interest thereon, within six weeks after receipt of the order.
- iv. The Claimant is permitted to withdraw the deposited amount along with accrued interest thereon.

8. All pending applications, if any, stand disposed of.

(SHIVKUMAR DIGE, J.)