

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

FIRST APPEAL NO. 324 OF 2021

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Vidya Ravindra Ghewari)
 Age: 52 years, Occ: Housewife,)
 R/o Plot No. 58, Gov. Colony,)
 Vishrambag, Sangli)....Appellant
 (Orig. Claimant)

Versus

1. Uttam Ashok Salokhe)
 Age- 40 years, 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
 (Orig. 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 Claimant has suffered 22.5% 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 award 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. It is Claimant's case that due to accidental injuries she has suffered 22.5% permanent physical disability. To prove the disability the Claimant has examined PW-2 Dr. Vikrant Magdum. Considering evidence on record, the Tribunal has awarded lump sum compensation amount at Rs.25,000/- for loss of earning capacity. In my view, it is on lower side. PW-2 Dr. Vikrant Magdum, Orthopaedic Surgeon has stated that the claimant was admitted in his hospital and she had injury on her head and there were injuries on her face, right hand bones. On 12th December, 2015 for the six fractures, the surgeries were done on her. In my view, as six surgeries were done on the face of the claimant, the compensation awarded by the Tribunal is on lower side.

6. It is claimant's case that she was doing tailoring work and she was earning Rs.4,000/- per month and due to accidental injuries, she is unable to do said work. Considering evidence on record, I am considering Rs.1,00,000/- loss of earning capacity. Tribunal has awarded Rs.25,000/- for pain and suffering hence, I am considering Rs.50,000/-. The tribunal has not awarded compensation for loss of

amenities in life. I am considering it Rs.50,000/-. The Tribunal has not awarded amount for special diet hence, I am considering Rs. 20,000/- for special diet.

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

Monthly Income	Rs.4,000/-
Annual Income	Rs.48,000/-
Loss of earning capacity	Rs1,00,000/-.
Multiplier 13 (Rs.19,200 X 13)	Rs.2,49,600/-
Pain and suffering	Rs.50,000/-
Loss of amenities in life	Rs.50,000/-
Special Diet	Rs.20,000/-
Total Compensation	Rs.3,69,600/-
Less awarded by the Tribunal	Rs.1,24,691/-
Enhanced amount	Rs.2,44,909/-

The claimant is entitled for enhanced amount of Rs.2,44,909/-.

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

ORDER

- i. Appeal is allowed.
- ii. The claimant is entitled for enhanced amount of

Rs.2,44,909/- @ 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.
9. All pending applications, if any, stand disposed of.

(SHIVKUMAR DIGE, J.)