

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO. 241 OF 2007

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| <p>1 Union of India through The Government of India
Defense Department, New Delhi</p> <p>2 Officer-in-charge
Dett D 759 Britf GREF Camp, Chinchapada,
Taluka Panvel, Dist-Raigad.
K.Ranga Swami
Driver, Dett D 759 BRITF GREF Camp, Chinchapada,
Taluka Panvel, Dist-Raigad.</p> | <p>Appellants
(Original
... Opponents)</p> |
| Versus | |
| <p>Venkatesh Barun Harjinas Reddy
Age 7 years, Occ. Nil
Through his natural Guardian Father
Barun Harjinas Vyankat Anna Reddy
Age 4. years, Occu. Labourer
Resident of Plot No. 271, Near Maharashtra Saw Mill,
Panvel, District Raigad
Originally resident of Dasarpalli,
Taluka Devarkadara, Dist. Majurkar, Karnataka State</p> | <p>Respondent
(Original
... Petitioner)</p> |

WITH
CROSS OBJECTION (ST) NO. 9868 OF 2009
IN
FIRST APPEAL NO. 241 OF 2007

- | | |
|---|--|
| <p>1 Union of India through The Government of India
Defense Department, New Delhi</p> <p>2 Officer-in-charge,
Dett D 79 Britf GREF Camp, Chinchpada,
Taluka Panvel, Dist-Raigad.</p> <p>3 K. Ranga Swami
Driver, Dett D 79 BRITF, GREF Camp, Chinchpada,
Taluka Panvel, District Raigad</p> | <p>Appellant
(Original
... Opponent)</p> |
| Versus | |
| <p>Venkatesh Barun Harjinas Reddy
Through his natural Guardian Father- Barun Harjinas
Vyankat Anna Reddy, Resident of Plot No. 271, Near
Maharashtra Saw Mill, Panvel, District Raigad</p> | |

Originally resident of Dasarpalli,
Taluka Devarkadara, Dist. Majurkar,
Karnataka State

Respondent
(Original
... Petitioner)

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Mr. Y.S.Bhate i/b Mr. S. S. Sarkar, Advocate for the Appellant.
Mr. Sachin Punde, Advocate for Respondents.

CORAM : SHIVKUMAR DIGE, J.

DATE : 4th APRIL, 2024

ORAL JUDGMENT :

1. The appellant /Defense department has preferred an appeal against the Judgment and Order passed by the Motor Accident Claims Tribunal, Raigad (for short “**the Tribunal**”). The claimant has also filed cross objection for enhancement of compensation. As appeal and cross objections are against the same Judgment and Order, I am deciding it by this common Judgment.

2. It is contention of learned counsel for the appellant/ Defense department that at the time of accident claimant was seven year old. He was not earning anything but the Tribunal has considered his yearly income at Rs. 15,000/- per year which is on higher side. Learned counsel further submitted that the claimant had taken treatment in Government hospital but the Tribunal has awarded compensation for medical expenses. The Tribunal has awarded compensation on higher side under other head without any evidence on record, hence requested to allow the appeal.

3. It is contention of learned counsel for respondent/claimant that

due to accidental injuries both legs of the claimant have been amputated. The Tribunal has considered 50% permanent physical disability of the claimant but it is 100% functional disability. At the time of accident the claimant was 7 years old, due to disability he has to suffer for whole life. The Tribunal has awarded compensation on lower side. The Tribunal has not awarded amount for prosthetic leg. The Tribunal has not awarded future prospects. The Tribunal has considered yearly income of the claimant on lower side hence requested to allow the cross objection.

4. I have heard both the learned counsel. Perused the Judgment and Order passed by the Tribunal. Admittedly, due to accidental injuries both legs of the claimant have been amputated. While considering notional income of the claimant the Tribunal has observed that at the time of accident claimant was seven years old hence the Tribunal has considered yearly income of claimant at Rs.15,000/-. In my view, it is on lower side. At the time of accident the claimant was seven years old and his both legs have been amputated, due to amputation of both legs he is unable to do any work in his future life, his functional disability is 100%, hence I am considering Rs.2,000/- as monthly income of the claimant. The Tribunal has not awarded future prospects. As per view of Hon'ble Apex Court in the case of *National Insurance Co. Ltd. vs. Pranay Sethi, 2017 ACJ 2700(SC)*, claimant is entitled to 40% future prospects. The Tribunal has

awarded Rs.50,000/- towards pain and suffering. Considering the nature of injuries, I am considering it Rs.3,00,000/-. The Tribunal has awarded Rs.1,00,000/- towards loss of enjoyment in life. Considering the nature of injuries, I am considering it Rs.3,00,000/-. The Tribunal has not awarded amount for future medical expenses i.e. prosthetic legs as both the legs of the claimant have been amputated, I am considering it Rs.15,00,000/-. The Tribunal has not awarded attendant charges, I am considering it Rs. 1,00,000/-. The Tribunal has not awarded amount for loss of expectation of life, I am considering it Rs.3,00,000/-. Though it is the contention of learned counsel for the appellant that the Tribunal has awarded compensation on higher side but considering the disability suffered by the claimant as well as considering the age of the claimant, the compensation awarded by the Tribunal is on lower side.

5. Considering the above calculations, claimant is entitled for following calculations:

Particulars	Rs.	Entitlement
Monthly Income	Rs.	2,000.00
Monthly income 2,000 X 12 months X 15 (Multiplier)	Rs.	3,60,000.00
Future prospects 40%	Rs.	1,44,000.00
Future Medical Expenses for prosthetic legs	Rs.	15,00,000.00
Attendant charges	Rs.	1,00,000.00
Pain and suffering	Rs.	3,00,000.00
Loss of expectation	Rs.	3,00,000.00

Loss of enjoyment in life	Rs.	3,00,000.00
Total	Rs.	30,04,000.00

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

ORDER

- (i) The appeal is dismissed.
- (ii) Cross Objection (St.) No. 9868 of 2009 is allowed.
- (iii) The claimant is entitled for enhanced amount of Rs.30,04,000/- @7.5% interest per annum from the date of filing of the claim petition till realisation of the amount.
- (iv) The appellant - Defense department shall deposit the enhanced amount along with accrued interest within eight weeks after receipt of the order. The claimant is permitted to withdraw the deposited amount.
- (v) The statutory amount along with interest accrued thereon be transmitted to the Tribunal. The parties are at liberty to withdraw it as per Rule.
- (vi) The claimant shall pay deficit court fees on the enhanced amount.
- (vii) Pending applications, if any also disposed of.

(SHIVKUMAR DIGE, J.)