

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 196 OF 2008

Suresh Ramchandra Salunkhe	)	
Age 47 years, Occ : Business	)	Appellant
Residing at 246/2B Khanve Wasti, Kalwad,	)	(Org.
Lohgaon, Pune 15	)	Claimant)

Versus

1 Durgawadi Sayaji Shendge	)	
Shanti Nivas Swati Nivas, Aalandi, Bhosari Road,	)	
Pune 411039, Mob. No. 9921909595	)	
2 United India Insurance Co. Ltd.	)	Respondents
Bhigwan Chowk, Taluka Baramati, Dist. Pune	)	(Org.
	)	Opponents)

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Mr. Harsh Dedhia i/b. Mr. Hiten Venegaovkar, Advocate for the Appellant.
Mr. Rahul Mehta i/b. KMC Legal Venture, Advocate for Respondent No.2.

CORAM : SHIVKUMAR DIGE, J.

DATE : 28th MARCH, 2024.

ORAL JUDGMENT :

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

2. It is contention of learned counsel for appellant/claimant that due to accidental injuries the claimant has suffered 75% permanent physical disability. Due to disability, claimant is unable to do any work. The claimant's left hand is amputated. At the time of accident he was

running two motor driving schools and was earning Rs.1,50,000/- to Rs.2,00,000/- p.a. However, after accident he could not continue his business but the Tribunal has not considered this fact. Learned counsel further submitted that the Tribunal has awarded compensation on lessor side under other heads. Hence requested to allow the appeal.

3. It is contention of learned counsel for the respondent No.2 /Insurance Company that no evidence was produced on record to prove the income of the appellant/claimant. The Tribunal has considered all the aspects while passing Judgment and Order. No interference is required in it.

4. I have heard both the learned counsel. Perused the Judgment and Order passed by the Motor Accident Claims Tribunal, Pune (for short “**the Tribunal**”). Admittedly, due to accidental injuries, the claimant has suffered 75% permanent physical disability and his left hand is amputated. To prove the income, the claimant has examined himself at Exhibit-18. He has stated that he was running two driving schools and getting income of Rs.1,50,000/- to Rs.2,00,000/- per annum. While dealing with the issue of income of the claimant, the Tribunal has observed that the claimant was running motor driving school by trained driver so there is no change in his earning. On that ground the Tribunal has awarded compensation amount of Rs.3,52,220/-. I am unable to understand observations of the Tribunal

as the claimant has suffered 75% permanent physical disability, the Tribunal should have considered notional monthly or early income of the claimant while awarding compensation. No evidence came on record that after the accident, the claimant continued with his motor driving school as the left hand of the claimant is amputated, hence I am considering Rs.6,000/- as a notional monthly income of the claimant. The Tribunal has not awarded amount for special diet, I am considering it at Rs.50,000/-. The Tribunal has awarded Rs.5,000/- for pain and suffering. Considering the disability of claimant, I am considering it as Rs.1,50,000/-. The Tribunal has not awarded amount for loss of amenities in life and for loss of expectation of life, I am considering it Rs.50,000/- and Rs.1,00,000/- respectively. The Tribunal has not awarded compensation for future treatment as the claimant is required prosthetic arm, I am considering it Rs.1,00,000/-. The Tribunal has awarded Rs.2,60,220/- towards medical expenses, I am considering the same amount.

5. It is contention of learned counsel for the appellant that interest be awarded @7.5% per annum. Learned counsel for the respondent No.2 /Insurance Company strongly objected and has submitted that the appeal is pending since year 2001 and appeal against the owner was dismissed. Thereafter, no steps were taken by the appellant/ claimant to proceed with the appeal. Hence appellant/claimant is not entitled for the

interest for the delayed period and interest period be awarded from the restoration of the appeal.

In my view, it is settled principle of law the claimant is entitled for interest on the compensation amount from the date of filing claim petition as the claimant's appeal was dismissed against the owner, hence I am considering interest @6% instead of @7.5% per annum.

6. Considering the above reasons, the claimant is entitled for following compensation:

Particulars	Rs.	Entitlement
Monthly Income	Rs.	6,000.00
Annual Income (6,000 X 12)	Rs.	72,000.00
Multiplier Rs. 72,000 X 14	Rs.	10,08,000.00
Medical Expenses	Rs.	2,60,220.00
Special Diet	Rs.	50,000.00
Pain and Suffering	Rs.	1,50,000.00
Loss of amenities	Rs.	50,000.00
Loss of expectation of life	Rs.	1,00,000.00
Future Treatment	Rs.	1,00,000.00
Total	Rs.	14,66,220.00
Less compensation awarded by the Tribunal	Rs.	3,52,220.00
Total enhanced amount	Rs.	11,14,000.00

Considering the above calculations, the claimant is entitled for enhanced amount of Rs. 11,14,000/-.

7. In view of above, I pass following Order:

ORDER

- i. The appeal is allowed.
 - ii. The claimant is entitled for Rs.11,14,000/- @ 6% interest per annum from the date of filing of claim petition till realisation of the amount.
 - iii. The respondent No.2/Insurance Company shall deposit the enhanced amount along with accrued interest thereon within six weeks from the receipt of this order.
 - iv. The claimant is permitted to withdraw the deposited amount along with accrued interest thereon.
 - v. The statutory amount 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 as per rule.
8. The appeal is disposed of. All pending applications, if any also disposed of.

(SHIVKUMAR DIGE, J.)