

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

FIRST APPEAL NO. 789 OF 2018

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The United India Assurance Co. Ltd.)
Having Office at: Sweet Dream Apartment,)
Near Railway Station, Boisar-Palghar Road)
Boisar, Tal & Dist: Palghar, through Motor)
TP Claims Hub Regional Office-2, Mumbai)
Union Co-Operative Insurance Building,)
5th Floor, Sir P. M. Road, Fort, Mumbai)....Appellant
(Org. Opp. No. 2)

Versus

1. Asha Savaram Meghawal,)
Aged: 2 years, Occ: Nil)
(Being minor represented through her)
father i.e. Mr. Savaram Chunilal)
Meghawal, Aged 38 years, Occ: Business,)
R/at. B-15, Ground Floor, Top Class)
Stivali Road, Boyda Pada, Gokhiware,)
Vasai (E), Tal.-Vasai, Dist: Palghar)

2. Devilal S/o. Kishan Lal Meghawal,)
Occ: Owner of business)

At manawato Ka Guda, Thaasil
Khumbalgarh, Dist: Rajsamanda,
Rajasthan State.

)
)
)....Respondents
(Res. No. 1 is Org.
Applicant/Claimant
and Res. No.2 is the
Org. Opp. No.1)

Mr. Sandeep Sharad Jinsiwale, Advocate for the Appellant.
Mr. Shirshak Chavanke, Advocate for the Respondent No.1.

CORAM : SHIVKUMAR DIGE, J.

DATE : 22nd FEBRUARY, 2024.

Oral Judgment. :

1. The issue involved in this appeal is compensation awarded by the tribunal is on higher side.

2. It is contention of learned counsel for the Appellant/Insurance Company that the Tribunal has awarded Rs.1,00,000/- for dis-figuration. Learned counsel further submitted that the Tribunal has already awarded Rs.10,00,000/- for pain and suffering and enjoyment of life and Rs.10,00,000/- for loss of marriage prospectus hence, the amount of Rs.1,00,000/- for awarded under the heads of dis-figuration is erroneous. Hence, requested to

allow the Appeal.

3. It is contention of learned counsel for the Respondent/Claimant that at the time of accident, the claimant was 2 years old. Admittedly, due to accidental injuries, left hand is amputated because of amputation of left hand, she would suffer for the rest of her life. She cannot wear her cloth on her own, she need the assistance. The Tribunal has not applied multiplier while awarded the compensation nor awarded compensation under other head. As, the claimant did not want to prolong matter hence, the claimant did not file cross appeal for the enhancement of compensation. The order passed by the Tribunal is proper 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, Palghar (for short "the Tribunal").

5. Admittedly, due to accidental injuries left hand of the claimant is amputated. At the time of accident, she was two years old. The Tribunal has awarded Rs.10,00,000/- for pain and suffering and loss of enjoyment of life and Rs.10,00,000/- for loss of marriage prospectus and Rs.5,00,000/- for artificial limb and Rs.1,00,000/- for dis-figuration. In my view, while awarding compensation the

Tribunal has not applied multiplier nor has considered notional monthly income of the claimant. Though, the Tribunal has awarded compensation under three to four heads and other heads have not been considered. Considering evidence on record, I am considering Rs.50,000/- for dis-figuration instead of Rs.1,00,000/-.

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

ORDER

- i. Appeal is partly allowed.
 - ii. The Appellant/Insurance Company is permitted to withdraw the Rs.50,000/- along with proportionate interest out of deposited amount.
 - iii. The claimant is permitted to withdraw the balance amount along with proportionate interest.
 - iv. The statutory amount be transmitted to the tribunal along with accrued interest thereon. The parties are at liberty to withdraw it, as per Rule.
6. All pending applications, if any, stand disposed of.

(SHIVKUMAR DIGE, J.)