

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO. 1308 OF 2019

	Anita @ Supriya Sachin Mehtre Age : 26 years, Occ: Household R/o. Shahu Nagar, Behind Talathi Office, Majalgaon, Dist. Beed, At Present R/o.H.No.27/5, Murarji Peth, Near Niralevasti Samaj Mandir, Solapur.	...Appellant
	versus	
1	Raghunath Gulabrao Mane, Age-59 years, Occ-Driver, Residing at Dahivadi, S.T. Depot, Dahivadi, Taluka and District Satara.	
2	Mah. State Road Transport Corporation Through the Divisional Mangaeer, M.S.R.T.C. Divisional Office, Solapur.	
3	Bajaj Allianz General Insurance Co.Ltd. The Branch Manager, Near City Hospital, Old Employment Chowk, Solapur.	
4	Balika Rajaram Mehtre, Age : 52 years, Occ.: Household, R/o. Shahu Nagar, Behind Talathi Office, Majalgaon, Dist.: Beed, At Present R/o. H.No.27/5, Murarji Peth, Near Nirale Vasti Samaj Mandir, Solapur.	...Respondents (Original Respondents)

With

FIRST APPEAL NO. 505 OF 2023

	Maharashtra State Road Transport Corporation Through the Divisional Manager, MSRTC Divisional Office, Solapur. Having office at Budhavar Peth, Solapur 413002.	...Appellant
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	versus	
1	Anita @ Supriya Sachin Mehtre Age : 26 years, Occ: Household R/o. Shahu Nagar, Behind Talathi Office, Majalgaon, Dist. Beed, At Present R/o.H.No.27/5, Murarji Peth, Near Niralevasti Samaj Mandir, Solapur.	
2	Bajaj Allianz General Insurance Co.Ltd. The Branch Manager, Near City Hospital, Old Employment Chowk, Solapur. (Ins.Company of Car No.MH-40/AC-2554).	
3	Balika Rajaram Mehtre, Age : 52 years, Occ.: Household, Residing at Shahu Nagar, Behind Talathi Office, Majalgaon, Dist.: Beed, At present residing at. H.No.27/5, Murarji Peth, Near Nirale Vasti Samaj Mandir, Solapur.	.
4	Raghunath Gulabrao Mane, Age-59 years, Occ-Driver, Residing at Dahivadi, S.T. Depot, Dahivadi, Taluka and District Satara.	..Respondents (Original Respondents)

Mr. R. S. Alange, Advocate for the Appellant in First Appeal No.1308 of 2019 and for Respondent Nos.1 and 3 in First Appeal No.505 of 2023.

Mr. Amit Gharte, Advocate for the Appellant in First Appeal No.505 of 2023 and for Respondent No.2 in First Appeal No.1308 of 2019.

Mr. Sarthak Diwan, Advocate for Respondent No.3 in First Appeal No.1308 of 2019 and for Respondent No.2 in First Appeal No.505 of 2023..

CORAM : SHIVKUMAR DIGE, J.

DATE : 13th FEBRUARY, 2024.

Oral Judgment :

1. By way of this appeal, the claimant is seeking enhancement of compensation. The Corporation has also preferred appeal against the same judgment and order. As both these appeals are against the same judgment and order, I am deciding it by this common judgment.

2. It is contention of learned counsel for the claimant that due to accidental injuries the claimant has suffered 50% physical permanent disability, her left eye is lost due to accidental injuries, there is 10% orthopedic physical permanent disability but this fact is not considered by the Tribunal and has awarded compensation on lower side. The Tribunal has not applied multiplier, nor has awarded future prospects. Hence, requested to allow the appeal.

3. It is contention of learned counsel for Corporation that while passing the order, the Tribunal has considered all the aspects. Learned counsel further submitted that the Tribunal has awarded Rs.1,00,000/- for loss of marriage prospects. Though claimant was married, her husband died in the said accident, so this amount should not have been granted. The Tribunal has awarded compensation on higher side. Hence, requested to allow the appeal filed by the Corporation and dismiss the appeal filed by the claimant.

4. Learned counsel for respondent No.3-Insurance Company

submitted that judgment and order passed by the Tribunal is legal and valid.

5. I have heard both learned counsel, perused the judgment and order passed by Motor Accident Claims Tribunal, Solapur (for short “the Tribunal”).

6. Admittedly, the claimant has suffered 50% permanent physical disability due to accidental injuries. She has lost left eye in the accident and she is suffering 10% orthopedic disability. The Corporation has not disputed about the disability of the claimant. At the time of the accident, the claimant was working as a nurse in private hospital and she was getting income of Rs.9,000/- per month. The Tribunal has considered her income at Rs.4,000/- per month. In my view, it is on lower side. To prove the income, the claimant – Anita Mehtre has examined herself at Exhibit-23. She has stated that she was working as a nurse in private hospital and was getting monthly salary of Rs.9,000/- but because of permanent disability, particularly loss of her left eye and permanent disablement due to injuries to hand and leg, she cannot resume her duty. Nothing elicited in her cross-examination to disbelieve her evidence. In my view, the claimant was working as a nurse, she had completed nursing course, so the income of Rs.4000/- per month considered by the Tribunal is on lower side, it should be Rs.4500/-. The Tribunal has not applied multiplier while calculating the compensation. At the time of accident, the claimant was 22 year old, hence, proper multiplier is 18.

Though, the claimant has suffered 50% permanent disability, her functional disability is 100% as she could not resume her duty because of loss of her left eye and orthopedic physical disability. The Tribunal has awarded compensation on the lower side for pain and suffering, loss of amenities of life and attendance charges. I am considering Rs.50,000/- for pain and suffering, Rs.50,000/- for loss of amenities of life, Rs.10,000/- for attendance charges and Rs.50,000/- for loss of expectation of life.

Considering the above calculations, the claimant is entitled for following compensation :

Annual Income (Rs.4500/- pm x 12)	Rs.	54000.00
40% future prospects	Rs.	21600.00
Total	Rs.	75600.00
Rs.75600/- x 18(multiplier)	Rs.	1360800.00
Medical Expenses	Rs.	423635.00
Pain and Suffering	Rs.	50000.00
Loss of amenities of life	Rs.	50000.00
Attendance Charges	Rs.	10000.00
Loss of Expectation of life	Rs.	50000.00
Total compensation	Rs.	1944435.00
Compensation Awarded by Tribunal	Rs.	723635.00
Total Compensation	Rs.	1220800.00

The Tribunal has awarded Rs.1,00,000/- for loss of marriage prospects. The claimant was already married. Hence, in my view, the Tribunal should not have awarded Rs.1,00,000/- for marriage prospects. Hence, this amount is excess amount, it will have to be adjusted in the enhanced amount of compensation. After deducting this amount from Rs.12,20,800/- considered by this Court, the claimant is entitled for enhanced compensation of Rs.11,20,800/-.

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

- (i) First Appeal No.1308 of 2019 is allowed.
- (ii) First Appeal No.505 of 2023 is partly allowed.
- (ii) The claimant is entitled for enhanced amount of Rs.11,20,800/- @ 7.5% from date of filing petition till realisation of the amount.
- (v) The Appellant/Corporation shall deposit the enhanced amount along with accrued interest thereon within six weeks from the receipt of the order.
- (vi) The claimant is permitted to withdraw the deposited amount along with accrued interest thereon.
- (vii) The statutory amount in First Appeal No.505 of 2023 be transmitted to the Tribunal along with accrued interest thereon. The parties are at liberty to withdraw it as per Rule.

7. Pending applications, if any, stand disposed of.

(SHIVKUMAR DIGE, J.)