IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO. 2149 OF 2008

	Master Nilesh Ramyesh Tiwari Age about 21 years, residing at 8/8, Dongaree Usman Colony, Near Shivner Vidya Mandir, Parerawadi, Sakinaka, Mumbai -400072.	]	Appellant (Original Applicants)
	Versus		
1	M/s. Saithnath Transport Co. Opp. H. P. Nagar, (East), above Chandrakant Tailor, Vasinaka, Chembur, Mumbai-400074	]	
2	The New India Assurance Company Ltd. New India Assurance Building, 87, Mahatma Gandhi Road, Fort, Mumbai – 400020.	]	Respondents (Original Opp: Party and Insurer)

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Mr. T. J. Mendon, Advocate for the Appellant.
Ms. Poonam Mital, Advocate for Respondent No.2.

CORAM : SHIVKUMAR DIGE, J.
DATE : 18th March, 2024.

ORAL JUDGMENT :

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

2. It is contention of learned counsel for the appellant/claimant that due to accidental injury the claimant has suffered 75% permanent disability. There is amputation of right leg of the claimant. At the time of accident the claimant was 14 years old. Due to accidental injuries the claimant has to suffer his future life but the Tribunal has not considered this fact and has awarded compensation on lower side. Learned counsel further submitted that the Tribunal has considered income of the appellant/claimant at Rs.15,000/- per annum which is on lower side. It should be Rs.5,000/- p.m., hence requested to allow the appeal.

3. It is contention of learned counsel for respondent No.2 /Insurance Company that at the time of accident, the appellant/claimant was 14 years old. There was no income to the appellant/claimant. The income considered by the Tribunal is proper. The Tribunal has considered all the aspects while passing the judgment and order. Hence, 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, Mumbai (for short "**the Tribunal**"). Admittedly, due to accidental injuries the claimant has suffered 75% permanent physical disability and his right leg below knee is amputated. The respondent/Insurance Company has not challenged the disability of the claimant. The Tribunal has considered notional monthly income of the claimant at Rs.15,000/- per annum as he was non earning person. In my view, it is on lower side. At the time of accident the claimant was 14 years old and there is amputation of his right leg below knee. The claimant has to suffer in his future due to permanent disability, hence I am considering Rs.3,000/- per month as a notional monthly income of the appellant/claimant. The Tribunal has not awarded future prospects. As per the view of Hon'ble Apex Court in the case of

National Insurance Co. Ltd. vs. Pranay Sethi [1], the claimant is entitled for 40% future prospects. The Tribunal has awarded Rs.10,000/- for pain and suffering. Considering the disability, I am considering it at Rs.2,00,000/-. The Tribunal has awarded Rs.25,000/- for loss of amenities of life, I am considering it at Rs.1,00,000/-. The Tribunal has awarded Rs.15,000/- for special diet, I am considering it at Rs.25,000/-. The Tribunal has not awarded amount for artificial limb, I am considering it at Rs.1,00,000/-. The Tribunal has not awarded amount for loss of marriage prospects, I am considering it at Rs.1,00,000/-.

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

Particulars	**Rs.**	**Entitlement**
Monthly Income	Rs.	3,000.00
Multiplier (Rs. 3,000 X 12 X 18)	Rs.	6,48,000.00
Future Prospects 40%	Rs.	2,59,200.00
Pain & suffering	Rs.	2,00,000.00
Loss of amenities in life	Rs.	1,00,000.00
Special diet	Rs.	25,000.00
Conveyance expenses	Rs.	1,00,000.00
Artificial limb	Rs.	1,00,000.00
Marriage Prospects	Rs.	1,00,000.00
Total	Rs.	15,32,200.00
Less compensation awarded by the Tribunal	Rs.	2,02,500.00
Total enhanced amount	Rs.	**13,29,700.00**

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The Tribunal has awarded amount of Rs.2,02,500/- if this amount is deducted from the amount considered by this Court i.e. Rs.15,32,200/- it would come to Rs.13,29,700/-, the claimant is entitled for this amount.

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

(i) The appeal is allowed.

(ii) The claimant is entitled for enhanced amount of Rs.13,29,700/- @ 7.5% interest per annum from the date of filing Claim Petition till realisation of the amount.

(iii) The respondent/Insurance Company shall deposit the enhanced amount within six weeks along with accrued interest thereon after receipt of the order.

(iv) The appellant/claimant is permitted to withdraw deposited amount along with accrued interest thereon.

(v) The appellant/claimant shall deposit the deficit Court fees on enhanced amount as per rule.

7. The appeal is disposed of.

(SHIVKUMAR DIGE, J.)

SONALI SATISH KILAJE Digitally signed by SONALI SATISH KILAJE Date: 2024.04.15 15:05:36 +0530