

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO. 2152 OF 2008**

Ramzan Kabir Mandal,
A minor aged 8 years, through
his father and next friend,
Shri Kabir Mandal,
Residing at Ray Road Zopadpatti,
Near Real Restaurant,
Barrister Nath Pai Road, Mazgaon,
Mumbai – 400 010.

(Orig. Applicant)
....Appellant

versus

1 Suresh Murlidhar Pingle
Res. At, Near Singh Service Stn.
Krishna Compound, Puma Village,
Bhiwandi, Dist: Thane

(Orig Opp. Party)

2 New India Assurance Co. Ltd.
New India Bhavan, RD-I,
Bellard Pier, Mumbai.
At Regd. Off : New India Ass Bldg,
87, M. G. Road, Hutatma Chowk,
Mumbai – 400 023.

(Orig Insurer)
...Respondents

Ms. Ketki Gokhale i/b. Mr. Avinash Gokhale, Advocate for the Appellant.
Ms. Poonam Mital, Advocate for Respondent No.2 /Insurance Company.

CORAM : SHIVKUMAR DIGE, J.

DATE : 25th JANUARY, 2024.

Oral Judgment :

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

2. It is contention of learned counsel for the appellant/claimant that due to accidental injuries, the claimant has suffered 15% disability but the Tribunal has awarded Rs.35,000/-, which is not proper. Learned counsel further submitted that as per the view of Hon'ble Apex Court in the case of **Master Mallikarjun-Appellant versus Divisional Manager, The National Insurance Company Limited and anr. reported in 2014 (14) SCC 396**, the claimants are entitled for Rs.3,00,000/-, it be awarded.

3. Learned counsel for the respondent No.2-Insurance Company submitted that the order passed by the Tribunal is legal and valid, no interference is required in it.

4. I have heard both learned counsel, perused the judgment and order passed by Motor Accident Claims Tribunal, Mumbai (for short "the Tribunal").

5. Admittedly, the claimant has suffered 15% disability due to the accidental injuries. The Tribunal has awarded Rs.35,000/- as compensation. As per the view of Hon'ble Apex Court in **Master Mallikarjun (supra)**, in case of disability above 10% and upto 30%, the claimants are entitled upto Rs.3,00,000/-. Thus, as per the view of Hon'ble Apex Court, the claimant is entitled for Rs.2,65,000/- after deducting an amount of Rs.35,000/-, granted by the Tribunal.

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

1. Appeal is allowed.

2. The claimant is entitled for an enhanced amount of Rs.2,65,000/- @ 7.5% interest per annum from the date of filing of the petition till realisation of the amount.
3. Respondent No.2-Insurance Company shall deposit the enhanced amount along with accrued interest thereon within six week from the receipt of the order.
4. The claimants are permitted to withdraw the enhanced amount along with accrued interest thereon.
7. Pending applications, if any, stand disposed of.

(SHIVKUMAR DIGE, J.)