

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

FIRST APPEAL NO.2596 OF 2005

Mr.V. Sundaram 4/25, Diamond Building, Chedda Nagar, Chembur, Mumbai-400 089	} } }	Appellant
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Versus

1. Manjit Singh Kartar Singh Obhan Bldg No.15, Room No.11, NL 14, Nerul Sector-11, New Bombay, District-Thane.	} } }	(Org. Owner of M/Tipper)
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2. Mr.S. Bhargavan Pillai No.8, Sandhya, Chedda Nagar, Chembur, Mumbai-400 089.	} } }	(Org. Owner of m/Cycle)
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3. United India Insurance Co. Ltd., Stadium House, Churchgate, Mumbai-20	} }	(Org. Insurer of M/Tipper)
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4. New India Assurance Co. Ltd. Branch Office No.110103, Charishma Centre, 2 nd Floor, 19 th Road, Chembur, Mumbai-71. Thr. Regd. Office : 87, M.G. Road, Fort, Bombay-23	} } } } } }	(Org. Insurer of m/Cycle) Respondents
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Ms.Ketki Gokhale i/b Mr.A.M. Gokhale, for the Appellant.
 Mr.Kunal Kumbhat a/w Mr.Nitiraj Shirke i/b Ms.Sunanda Kumbhat, for Respondent No.2.
 Mr.Sanjay Krishnan i/b Leges Consults, for Respondent No.3.
 Mr.D.S. Joshi i/b Mr.I.R. Kulkarni, for Respondent No.4.

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CORAM : SHIVKUMAR DIGE, J.

DATE : 15th MARCH 2024

ORAL JUDGMENT :

. By way of this Appeal, the Appellant-Claimant is seeking enhancement of the compensation.

2. It is contention of the learned counsel for the Appellant-Claimant that, due to accidental injuries the Appellant has suffered 83% permanent physical disability, but Tribunal has not awarded compensation under the head of pain and suffering, loss of amenities in life, future prospects and multiplier has not been applied. Hence, requested to allow the Appeal.

3. It is contention of the learned counsel for the Respondent No.3-Insurance Company that after the accident the Claimant's continued in his service and he retired after completing 58 years, so there was no loss of income to the Claimant's due to physical disability nor future prospects is required, as he continued in the service. The Tribunal has considered all the aspects, hence, no interference is required in the judgment and order passed by the Tribunal.

4. The learned counsel for Respondent No.4 adopted the submissions of the learned counsel for Respondent No.3.

5. I have heard all learned counsel. Perused judgment and order passed by the Motor Accident Claims Tribunal ('The Tribunal' for short), Mumbai.

6. It is Claimant's case that, the Claimant has suffered 85% permanent physical disability due to accidental injuries. Admittedly, after the accident the Claimant continued in the service and after completing 58 years he retired from service. It shows that due to permanent physical disability there is no loss of income to the Claimant and he has not been terminated from the service, so no question of giving future prospects or consideration of loss of income arises. Hence, I am not considering it.

7. While awarding compensation the Tribunal has not awarded compensation for pain and suffering, loss of amenities in life and loss of expectation of the life. Hence, I am considering Rs.30,000/- each compensation under above heads.

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

ORDER

- (i) The Appeal is allowed.
- (ii) The Claimant is entitled enhanced amount of Rs.90,000/- @ 7.5% interest per annum from the date of the filing of Claim Petition till realization of the amount.
- (iii) The all Respondents are jointly and severely shall deposit the enhanced amount along with accrued interest thereon, within six weeks after receipt of the order.
- (iv) The Claimant is permitted to withdraw the deposited amount alongwith interest.
- (v) The Claimants shall pay deficit Court Fees on enhanced amount.
- (vi) All pending Civil and Interim Applications are disposed of.

(SHIVKUMAR DIGE, J.)