

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

**FIRST APPEAL NO. 1221 OF 2019**

|                                                          |   |                     |
|----------------------------------------------------------|---|---------------------|
| <b>The New India Assurance Co. Ltd.</b>                  | } |                     |
| Baramati Branch, Bhigwan Chowk, Taluka-                  | } |                     |
| Baramati, District-Pune,                                 | } |                     |
| Through Its Legal Hub at TP-41 B, 4 <sup>th</sup> Floor, | } |                     |
| Maker Tower, E Cuffe Parade,                             | } |                     |
| Mumbai-400 005.                                          | } | <b>...Appellant</b> |

*Versus*

|                                        |   |                       |
|----------------------------------------|---|-----------------------|
| <b>1. Shikmravau Sahebrao Jagtap</b>   | } |                       |
| Aged – 34 years, Occ : Business        | } |                       |
| R/o. Undawadi, K.P. Taluka-Baramati,   | } |                       |
| District-Pune.                         | } |                       |
| <b>2. Shri.Sunil Rameshlal Jaiswal</b> | } |                       |
| Aged – 42 years, Occ : Business        | } |                       |
| R/at Likhakhed, Taluka-Sillod,         | } |                       |
| District-Augrangabad-431 003.          | } | <b>...Respondents</b> |

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KAMBLE

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Ms.Poonam Mital, for the Appellant.  
Mr.G.S. Jadhav, for the Respondents.

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**CORAM : SHIVKUMAR DIGE, J.**

**DATE : 24<sup>th</sup> JANUARY 2024**

**ORAL JUDGMENT :**

. The issue involved in this Appeal is compensation is awarded on higher side.

2. It is contention of the learned counsel for the Appellant that, the Claimant has suffered 60% disability, but Tribunal has awarded compensation on higher side under non-pecuniary heads, which is not proper. Hence, requested to allow the Appeal.

3. It is contention of the learned counsel for the Respondent-Claimant that, the Claimant has suffered 60% permanent disability due to accidental injuries. He was earning Rs.21,000/- per month. But Tribunal has considered Rs.7,000/- as monthly income of the Claimant, which is on lower side. As the Claimant did not want prolong the matter, hence, the Claimant has not preferred the Appeal. The order passed by the Tribunal is legal and valid hence no interference is required in it.

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

5. Admittedly, the Claimant has suffered 61% permanent physical disability, his functional disability is 100%, but this fact is not considered by the Tribunal. The Tribunal has

deducted 40% amount from total earning capacity of the Claimant, which is not proper. The Claimant has not preferred Appeal. Considering these facts the compensation awarded under the other heads is proper and no interference is required in it and I pass following order.

### **ORDER**

- (i) The Appeal is dismissed. No order as to cost.
- (ii) The Claimant is permitted to withdraw deposited amount alongwith accrued interest thereon.
- (iii) The statutory amount along with interest be transferred to the Tribunal. The parties are at liberty to withdraw it, as per Rules.
- (iv) Pending Civil and Interim Applications are disposed of.

**(SHIVKUMAR DIGE, J.)**