

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

FIRST APPEAL NO.1956 OF 2019

APPELLANT

(Ori. Claimant)
(On R. A.)

:

Ashish S/o. Arvind Shrikhande

Aged about 35 years, Occ: Nil, R/o At
Post Rohidas Colony, Amravati, Tq. &
Dist. Amravati.

..VERSUS..

RESPONDENTS

(Ori. Respondents)
(On R. A.)

: 1

Khetaram S/o. Saluram,

Aged about Major, Occu: Driver, R/o.
At Awadi Bhimaji Kamthai Tq.
Gudhamalan & Distt. Barmer,
**(Driver of offending Tata Truck Trailor
No.RJ-04-GA-6359)**

2

Chenaram S/o. Simartharam,

Aged Major, Occu: Not Known, R/o.
At Awadi Bhimaji Kamthai, Tq.
Gudhamalan & Distt. Barmer,
**(Owner of offending Tata Truck Trailor
No.RJ-04-GA-6359)**

3

**The Chalamandalam MS Insurance Co.
Ltd.,**

Correct address:

Through its Divisional Manager, 22-B,
1st Floor, Amber Apartment, Near
Tilak Nagar Ground, Tilak Nagar, ,
Nagpur, Tq. & Dist. Nagpur
**(Insurer of offending Tata Truck
Trailor No.RJ-04-GA-6359)**

In view of order dated
23.07.2019 passed by this
Court, the amendment
carried out.

Mr S. S. Alaspurkar, Advocate for Appellant.

Ms M. Naik, Advocate for Respondent No.3.

CORAM : M. W. CHANDWANI, J.

DATED : 4th SEPTEMBER, 2024.

ORAL JUDGMENT

1. Heard.

2. **Admit.**

3. Correctness of the impugned award dated 03.03.2018 passed by the Motor Accident Claims Tribunal, Amravati, has been questioned in the instant appeal by the original claimant, who suffered injury in a vehicular which accident occurred on 16.05.2014.

4. The impugned award has been challenged mainly on the ground of quantum of compensation. The contention is that though, the appellant – original claimant has examined his employer namely Nilesh Vijayrao Shrikhande, who deposed that he was giving a salary of Rs.12,000/- per month to the appellant, but the Tribunal assessed monthly income of the appellant at the rate of Rs.4,500/- per month on guess work.

5. Perusal of the version of Nilesh Shrikhande reveals that the appellant was doing the work of photography and mixing in his shop and he used to pay him a salary of Rs.12,000/- per month. For that purpose, the employer of the appellant has placed on record the balance sheet of profit and loss account for three years. It is a matter of record that in the said vehicular accident, one more person died and the dependant of the said person filed a claim petition for compensation. In that case also, this very employer has deposed that the deceased was working in his shop and he used to pay him a salary of Rs.12,000/- per month.

6. Perusal of the balance sheets of profit and loss account for the years 2011-12, 2012-13 and 2013-14 filed before the Tribunal, wherein, in the profit and loss account for the year 2013-14, the amount of Rs.2,88,000/- has been shown as salary. There is nothing on record to suggest that apart from these two employees, there were no other employees. Rather, no bifurcation is given in the profit and loss account or no

lessor account has been produced in that regard. Therefore, the Tribunal has rightly ignored the evidence deposited by the employer and assessed the income of the appellant at the rate of Rs.4,500/- per month. Though, the Tribunal was right in discarding the evidence of PW-2 - Nilesh Shrikhande, but the Tribunal erroneously has assessed the income of the appellant at the rate of Rs.4,500/- per month.

7. Considering the nature of work of photography and mixing, which was being done by the appellant, which requires special skill, I think, the Tribunal ought to have assessed the income of the appellant at the rate of Rs.6,000/- per month. Therefore, the appeal succeeds.

8. In view thereof, the appellant is entitled for the following compensation :

1.	Monthly notional income of the appellant	Rs.	6,000/-
2.	Annual Income of the appellant (Rs.6,000/- x 12)	Rs.	72,000/-
3.	Disability 44% (Rs.72,000/- x 44% = Rs.31,680/-)	Rs.	31,680/-
4.	Multiplier on disability of 16 as per the judgment of Sarla Verma vs. Delhi Transport Corporation, (2009) 6 SCC 121, applicable for the age group of 31 to 35	Rs.	5,06,880/-

	(Rs.31,680/ x 16)		
5.	Add : Amount towards medical expenses	Rs.	8,35,623/-
	Total	Rs.	13,42,503/-
6.	Future Medical Expenses	Rs.	50,000/-
7.	Pain and suffering	Rs.	10,000/-
8.	Special Diet	Rs.	5,000/-
	Total payable compensation to the appellant	Rs.	14,07,503/-

9. In the above said terms, the appeal is partly allowed and para (ii) of the impugned award dated 03.03.2018 is modified as under :

“The appellant is entitled to get a compensation of Rs.14,07,503/- inclusive of the amount towards “No Fault Liability” with interest at the rate of 9% per annum from the date of petition till realization of full amount.”

10. Rest of the impugned award of the Tribunal shall remain intact.

(M. W. CHANDWANI, J.)