IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 458 OF 2011

. Mangalabai w/o Sahebrao Jogdand
Age: 46 years, Occu.: Tailoring,
Now NIL, Resident of Shirdshahpur,
Taluka Aundha, District Hingoli. ....Appellant
(original petitioner)

Versus

1) Sachin s/o Shamsundar Birla
Age: 32 years, Occu.: Business,
Resident of Shri Krishna Automobiles,
main road Manwat, Taluka Manwat,
District Parbhani.

2) The Oriental Insurance Co. Ltd.,
Through its Branch Manager,
Parbhani. .....Respondents

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Advocate for Appellant : Ms.A.N.Ansari
Advocate for Respondent no.1 : Mr.Raviraj R. Chandak
Advocate for Respondent no.2 : Mr. Arun G. Kanade

.....

CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 03 DECEMBER, 2025
PRONOUNCED ON : 04 DECEMBER, 2025

JUDGMENT :-

1. Aggrieved by the judgment and order dated 02-12-2010, passed by learned Chairman, Motor Accident Claims Tribunal (MACT), Parbhani in MACP No.477 of 2009, original claimant, who is primarily dissatisfied by the quantum awarded by the learned Tribunal, has preferred instant appeal.

2. In nutshell facts of the case are that, original claimant/present appellant instituted above referred motor accident claim petition on the premise that on 02-08-2009, while she was travelling in a auto rickshaw, Indica Car bearing no.MH22 H-2223 coming from opposite direction, came to the wrong side and gave dash to auto rickshaw occupied by claimant. Due to the accident, she suffered fracture injuries and was required to be admitted and treated from 03-08-2009 to 29-08-2009 and was required to spend for treatment and medical expenses.

Learned Tribunal, after considering the case contested by respondent nos.1 and 2, by order dated 02-12-2010, partly allowed the claim petition directing payment of Rs.1,55,000/- with 6% rate of interest.

The above judgment and order is now taken exception to by original claimant on various grounds raised in the appeal memo.

3. Learned counsel for the appellant pointed out that, apparently it was proved before learned Tribunal that claimant was incumbent of auto rickshaw and the same was given dash by Indica car. That, the learned Tribunal gave reasoned order holding that there was rashness and negligence on the part of driver of Indica car and

thereby further held that claimant has suffered injuries and thus, was entitle for compensation. Learned Counsel further pointed out that injured claimant was doing tailoring work and earning Rs.4,000/- per month, however, learned Tribunal considered only Rs.3,000/- per month as notional income and also did not consider her exact age and accordingly, not applied relevant multiplier while computing the compensation.

4. Learned Counsel would further point out that, claimant also established injuries, treatment and medical expenses as well as disability by examining medical expert, however, even the same has not been correctly appreciated and according to learned counsel, in spite of evidence, learned Tribunal considered only 20% disability and even did not grant entire medical expenses incurred by her. Hence, learned Counsel urges to interfere, set aside the Judgment and order of learned Tribunal and enhance the compensation.

5. The above contentions are strongly opposed by learned counsel for respondent no.2/Insurance company, who apart from justifying the findings and conclusion of learned Tribunal, would submit that there was admittedly collision between two vehicles. That, learned Tribunal did not consider contributory negligence of auto rickshaw

driver. As regards to disability and medical expenses are concerned, learned Counsel took this court through observations of learned Tribunal in paragraph 8 and 9 and took this Court through admission given by claimant herself. He pointed out that, medical bills are not proved and are rather found to be fabricated with sole intention to seek more compensation. Therefore, for above reasons, he justifies and supports the impugned judgment and prays to dismiss the appeal for want of merits.

6. Perused the record. On the strength of evidence of claimant, FIR, spot panchanama and injury certificate, learned Tribunal has held that claimant is victim of road traffic accident. Learned Tribunal has also perused the evidence as regards to medical treatment and injuries are concerned. Learned Tribunal, in paragraph 9, has taken into account the medical bills placed on record and has also appreciated the evidence of one Prashant Mundada, who is owner of medical shop and through him bills at sr. nos.17 to 46 and 50 to 52 are held to be proved. By appreciating evidence of another witness Dr.Suryakant Deshmukh and on taking into account admission from him that bills issued by him are not issued serially from the bill book and they are not consistent as per sequence and date, learned

Tribunal has held that as claimant was treated as indoor patient, there is no question of she paying visiting charges of the doctor. However, finding of the learned Tribunal that bills produced by claimant for I.V. Fluids are from private shop, there is duplication of amount of compensation, is not just and proper. It is common practice that, even if a patient is admitted, prescriptions are issued to the patient, who arrange for the medicines and therefore, evidence of Dr.Deshmukh ought not to have been doubted. Therefore, the medical bills placed on record and which are got proved by examining medical shop owner, are required to be considered.

7. Further even the Doctor, who issued disability certificate, was examined at exh.44. However, finding of learned Tribunal that said Doctor did not obtain x-rays and has relied only on information of patient regarding fracture, is also in the considered opinion of this Court is incorrect. When the doctor himself had stepped in witness box and assessed disability, there was no reason to discard his evidence for want of x-ray examination. Similarly, when disability has been shown to be to the extent of 42%, the same also ought not to have been brought down to 20% without assigning plausible reason.

Therefore, as submitted, such approach of Tribunal, in case of such nature, was too technical and therefore, interference is required to be called for.

8. In view of above discussion, the age of the claimant i.e. 45 years as stated by her needs to be considered and relevant multiplier i.e. 14 is applicable. Apart from this, income of Rs.4,000/- per month as stated by her, disability i.e. 42% as stated by the medical expert and all medical bills incurred for treatment are required to be considered.

Accordingly, the claimant is entitle for the enhanced compensation as calculated below :

Income per month = Rs.4,000 Income per annum Rs.4,000 x 12 = Rs.48,000	
Disability 42% i.e. 42% of Rs.48,000 = Rs.20,160	
Age is 45 years, therefore, multiplier 14 is applicable Future loss of earning = Rs.20,160 x 14	2,82,240
Amount towards all medical bills	92,000
Amount towards mental agony	5,000
Amount towards loss of amenities in life	10,000
Total	**3,89,240**
Less - Amount of compensation granted by Tribunal	**1,55,000**
Total amount of enhanced compensation	**2,34,240**

9. In view of above, following order is passed.

ORDER

(I) The Judgment and Order dated 02-12-2010, passed by the learned Chairman, Motor Accident Claims Tribunal, Parbhani, is modified.

(II) Respondent no.2/Insurance Company is directed to pay enhanced compensation of **Rs.2,34,240/-** to claimant within 12 weeks from today along with interest @ 6% per annum from the date of registration of claim petition till its realization.

(III) Modified award be prepared accordingly.

(IV) The claimant shall pay court fees, if any, on the enhanced amount of compensation, as per Rules.

(V) The claimant/appellant shall not be entitled to the interest part on the enhanced amount for the delayed period.

(VI) On deposit of the amount by Insurance Company, appellant/claimant is permitted to withdraw the same.

(VII) The Appeal is disposed of in above terms.

(ABHAY S. WAGHWASE)
JUDGE

SPT