



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD**

**FIRST APPEAL NO. 853 OF 2004**

Suresh s/o Malaba Rokade,  
Age : 34 years, Occu : Service,  
R/o. Daithan Gunjal, Taluka Parner,  
District Ahmednagar

...Appellant

**Versus**

1. Sanjay s/o Gulab Angare,  
Age : 29 years, Occu : Business,  
R/o. Daithan Gunjal, Talula Parner,  
District Ahmednagar  
(Owner of Vehicle, i.e. Minidoor  
Rikshaw No. MH-16, B-6325)

2. The Oriental Insurance Company Ltd.  
Through the Branch Manager, Ambar Plaza,  
Station Road, Ahmednagar

...Respondents

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Mr. Pradip S. Jadhav h/f Mr. V. P. Latange, Advocate for the Appellant.  
Mr. N. R. Katneshwarkar, Advocate for Respondent No.1.  
Mr. R. K. Totla, Advocate for Respondent No.2.

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**CORAM : ABHAY J. MANTRI, J.**

**DATE : OCTOBER 15, 2025**

**JUDGMENT :**

1. The original claimant, being dissatisfied with the judgment and order dated 21<sup>st</sup> January 2004, passed by the learned Member, Motor Accident Claims Tribunal, Ahmednagar (for short- the '*Tribunal*'), in MACP No. 504 of 2000, has preferred this appeal.

2. On 14<sup>th</sup> August 1999, at about 04:00 p.m., the applicant travelled in a Mini Door Auto Rickshaw bearing MH-16-B-6325 from Nagar to Daithane Gunjal on Nagar Kalyan Road. On the way, the back tyre of the

Mini Door was burst, and therefore, the said Mini Door Rickshaw was turned over on the road and in the said accident, the applicant sustained grievous fractures to his neck, left leg and left lower limb.

3. After the accident, he was taken to Dhanwantani Hospital at Bhalwani for initial treatment. From there, he was shifted to Dr. Patil's Hospital, Ahmednagar, where he was admitted from 14<sup>th</sup> August 1999 to 17<sup>th</sup> August 1999, as an indoor patient, where the treatment was given to him. He incurred medical expenses of ₹ 30,000/-.

4. On 17<sup>th</sup> August 1999, Police Head Constable Pisal lodged a report about the accident at Parner Police Station. Based on the report, crime No. 171 of 1999 was registered against the driver of the auto rickshaw.

5. The claimant/appellant is a resident of the village of Gunala. At the time of the accident, he was 30 years old and working as a secretary of a co-operative society. He was doing service and earned ₹ 3,000/- per month. He also has agricultural land and earns ₹ 3,000/- per month. Thus, he earned ₹ 6,000/- per month.

6. Respondent No.1 is the driver and owner of the rickshaw/Mini Door. His Mini Door was insured with respondent No.2 – Insurance Company; therefore, both the respondents are jointly and severally liable to pay compensation to the claimant. Hence, he filed the claim for compensation of ₹ 2,00,000/-.

7. The respondent No.1 appeared in the matter, but failed to file the written statement; hence, the matter was proceeded ex parte/ without a written statement against the respondent No.1. The respondent No.2 appeared and resisted the claim by filing a written statement. He denied the contents of the application and the occurrence of the accident. It also denied the injury sustained to the claimant, his age and income; therefore, respondent No.2 prayed for dismissal of the application against it.

8. Based on the rival pleadings, the learned Tribunal framed the issues and, after considering the evidence on record, partly allowed the claim and held that respondent Nos. 1 and 2 are jointly and severally liable to pay the claimant ₹ 52,600/—along with 9% per annum interest from the date of filing of the application.

9. It is pertinent to note that respondents have not preferred any appeal challenging the said impugned judgment and order. Therefore, it seems that they don't dispute the findings recorded by the learned Tribunal and have no grievance about the same; as such, the said findings are binding on them. However, dissatisfied with the claim, the claimant has preferred this appeal.

10. Heard the learned advocates for both parties and perused the impugned judgment and record.

11. The learned advocate for the appellant submitted that the

learned Tribunal has not considered the income of the claimant in its proper perspective and erred in holding that the claimant was earning ₹ 2,000/- per month only. The said finding is contrary to the evidence on record, and therefore, the applicant is entitled to enhancement of the compensation.

12. Secondly, he argued that the learned Tribunal has not considered the fact that the claimant has sustained 30% disability and therefore, he lost his future earning capacity and hence, he submitted that the passing of the judgment and order by the learned Tribunal is liable to be modified. Lastly, he submitted that due to the injury he sustained, he lost his efficiency of work and earning capacity; as such, he is entitled to get enhanced compensation. Thus, he urged accordingly.

13. On the other hand, the learned advocate for respondent No.2 vehemently resisted the claim and submitted that after considering the evidence on record, the learned Tribunal rightly held that the applicant is entitled to the amount as awarded. He has drawn my attention to the findings recorded by the learned Tribunal in paragraph Nos.10, 11 and 12 and submitted that the learned Tribunal has appreciated the evidence on record and held that the applicant was having income of ₹ 2,000/- per month and after considering his income, expenses incurred by him for medical treatment, the learned Tribunal has awarded the compensation. He further canvassed that after four months, the applicant had resumed his duty; therefore, it cannot be said that he has lost his future income. Hence,

he urged for the dismissal of the appeal.

14. On perusal of the impugned judgment, it appears that learned Tribunal in paragraph Nos. 10 to 12 has categorically discussed about the income of the claimant and expenses incurred by him as well as his disability and accordingly, the learned Tribunal awarded ₹ 30,000/- for 30% disability and ₹ 10,000/- for pains and suffering and ₹ 7,600/- for medical expenses and towards the diet charges ₹ 5,000/-.

15. The learned Tribunal has also observed that the evidence on record shows that, after the accident, the applicant has also taken crops in its agricultural land. Therefore, it cannot be said that he lost his income through agricultural land. Similarly, the learned Tribunal in paragraph No.10 observed that the claimant/appellant admitted during his cross-examination that he has resumed duty and is doing his work regularly; therefore, the said admission itself denotes that he has not been discontinued by the society where he was working. As such, he is not entitled to claim compensation under the head of the future loss of income. The learned advocate for the appellant failed to point out any illegality or perversity in the findings recorded by the learned Tribunal in the impugned judgment.

16. It is pertinent to note that due to injuries sustained, the claimant didn't attend his duty for 3 to 4 months, however, the learned Tribunal has not granted compensation on account of loss of income for the

said period holding that claimant failed to examine the Chairman of the society and thereby failed to prove the certificate issued by the Chairman, hence, claimant is not entitled for the compensation for the loss of 4 months salary. However, the said finding appears to be contrary to the evidence on record. The claimant, in his evidence, has categorically deposed that he could not resume his duty for 3 to 4 months after the accident, and he resumed his duty thereafter and has been doing his regular work. However, the learned Tribunal has not awarded compensation for the loss of earnings of 4-month periods, i.e. approximately ₹ 8000 to 12,000/-. During his cross-examination, he has also admitted that there is a scope of promotion in their cadre. Having considered the same, in my view, the claimant is entitled to additional compensation of ₹ 10,000/- under the head of loss of earnings for the period of 4 months, for which he was unable to join his duty, and therefore, the finding in that regard is required to be modified in the appeal.

17. Thus, considering the above discussion, in my view, the claimant/appellant is entitled to additional compensation of ₹ 10,000/-; therefore, the impugned judgment and order are liable to be modified to that extent. As such, the appeal is partly allowed. The order dated 21<sup>st</sup> January 2004 is modified to the extent that respondent Nos. 1 and 2 are jointly and severally liable to pay an amount of ₹ 62,600/- instead of ₹ 52,600/- (inclusive of no-fault liability) to the claimant/appellant, along with 9% interest p.a. on the unpaid amount (i.e. might be additional

amount of Rs. 10,000/-) from the date of the application. It is made clear that the appellant is entitled to further compensation in addition to the compensation awarded by the learned Tribunal, with 9% interest p.a. from the date of the application.

18. The appeal is partly allowed. A decree be drawn up accordingly.
19. Inform the learned Tribunal.
20. Record and proceedings be sent back to the Tribunal.

(ABHAY J. MANTRI, J.)