



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 603 OF 2022

Akshay Vinod @ Vinayak Salve,
Age – 27 years, Occ – Nil,
R/o. LandeVasti, Behind Shripad
Marriage Hall, Shevgaon,
Tq. Sheogaon, Dist. Ahmednagar

....Appellant
(Orig. Claimant)

VERSUS

1] The Divisional Manager,
The Oriental Insurance Co. Ltd.,
Ambar Plaza, Station Road,
Opposite old bust stand,
Ahmednagar.

2] Dattatraya Rakhama Shete,
Age : Major, occu. Agriculture.
R/o. Devibhoyare, Tq. Parner,
Dist. Ahmednagar.

3] Chandrakant Dinkar Chavan,
Age : Major, occu. Driver.
R/o. Chavan Galli, Newase Kd,
Tq. Newasa, Dist. Ahmednagar.

....Respondent
(Orig. Respondents)

...

- Advocate for Appellant : Mr. Sachin S. Kotkar
- Advocate for Respondent No. 1 : Mr. V. N. Upadhe
- Advocate for Respondent No. 2 : Mr. D. R. Jaybhar

...

CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 30.09.2025

PRONOUNCED ON 14.10.2025

JUDGMENT :

1. The appellant, being the original claimant, is aggrieved and dissatisfied with the quantum of compensation awarded by the Tribunal. The present appeal is filed against the impugned judgment and award dated 03.07.2019, passed by the learned Member, Motor Accident Claims Tribunal (MACT), Newasa in Motor Accident Claim Petition No. 83 of 2015. The appellant contends that the Tribunal inadequately assessed the extent of functional disability and entirely overlooked compensation for future prospects. Consequently, the appellant has filed the present appeal under the provisions of Section 173 of the Motor Vehicles Act, 1988, seeking an enhancement of the compensation awarded.

FACTUAL MATRIX

2. Case before the learned Tribunal was that, on 24.12.2014, the appellant, aged 22 years old, was riding his motorcycle bearing registration no. MH-16/BE-5578, with a pillion rider, and proceeding from Bhenda factory to Shevgaon. A tempo, bearing registration no. MH-16/Q-9355, owned by respondent no. 2, driven by respondent no. 3, and insured with respondent no. 1, came from the opposite direction in a rash and negligent manner and gave dash to the appellant's motorcycle. As a result, the appellant sustained serious

injuries in the accident, including comminuted fractures of the right femur, tibia, and fibula, along with fractures of the right 3rd and 5th metacarpals. He also suffered a brachial plexus injury, resulting in significant impairment of limb function and permanent disability. He was hospitalized and treated at Sancheti Hospital, Pune, and a permanent disability certificate was issued by the treating doctor, indicating permanent disability of 72%.

3. At the time of the accident, the appellant was a second-year B.Sc. Student, aspiring to pursue postgraduate studies (M.Sc. or LL.B.), and had also been selected for employment in Mumbai Metro, which he could not join due to the injuries. A claim of Rs. 50,00,000/- was raised under various heads. However, the learned Tribunal awarded only Rs. 10,32,000/-, which included Rs. 4,32,000/- towards loss of future income, calculated by taking 50% functional disability and a notional income of Rs. 4,000/- per month, and Rs. 6,00,000/- towards medical expenses, which the appellant contends is grossly inadequate.

SUBMISSIONS

On Behalf of the Appellant:-

4. Mr. S. S. Kotkar, learned counsel for the appellant, contends that the learned Tribunal arbitrarily considered only 50% functional

disability, despite the medical certificate certifying 72% permanent disability. He further contends that the learned Tribunal failed to award any amount towards future prospect, contrary to settled legal principles, and assessed unrealistically low notional income of Rs. 4,000/- per month, overlooking the appellant's academic background and future earning potential.

5. In support of his submissions, learned counsel places reliance on the rulings of the Hon'ble Apex Court in the case of *National Insurance Co. Ltd. v. Pranay Sethi*, (2017) 16 SCC 680, *Sarla Verma v. Delhi Transport Corporation*, (2009) 6 SCC 121, *Kajal v. Jagdish Chand*, (2020) 4 SCC 413, *Baby Sakshi Grewal v. Manzoor Ahmad Simon & Anr.*, 2024 SCC OnLine SC 3692.

On Behalf of Respondent No. 1

6. Learned counsel for the respondents supports the findings of the learned Tribunal but fairly concedes that the learned Tribunal did not award future prospects. It is not in dispute that the appellant was a student and was not in formal employment at the relevant time.

ANALYSIS

7. Heard. Perused the record and evidence. There is no dispute as to the occurrence of the accident on 24.12.2014 or the rash and negligent driving by the driver of the tempo involved. The only

question in this appeal is whether the quantum of compensation awarded by the learned Tribunal is just and fair, particularly on two aspects: (i) The percentage of disability considered; and (ii) Non-award of compensation towards future prospects.

8. The learned Tribunal assessed notional income at Rs. 4,000/- per month, based on the fact that the appellant was a student at the time of incident, and computed compensation by applying 50% functional disability. The Tribunal in this regard finding place in paragraph nos. 7 and 8.

9. The learned Tribunal assessed the appellant's notional income at Rs. 4,000/- per month and applied 50% functional disability, based solely on its own estimation, despite a medical certificate certifying 72% permanent disability.

10. The appellant, a 22-year-old student, at the time of the accident, had a clear academic path and was even selected for employment in Mumbai Metro, which he could not join due to his injuries. Even considering his educational background and potential, he was entitled to higher notional income and future prospects.

11. In support of his submissions, learned counsel for the appellant placed reliance on key Supreme Court decisions. In the case of *Pranay Sethi, (Supra)* the Hon'ble Apex Court held that 40% future

prospects must be added for students and self-employed individuals. In case of *Kajal vs. Jagdish Chand, (Supra)* the appellant's young age and academic record were held to be justified for enhanced compensation. the Hon'ble Apex Court in the case of *Baby Sakshi Grewal (Supra)* reaffirmed that students' future earning capacity must be considered. As per *Sarla Verma, (Supra)* a multiplier of 18 is applicable for individuals aged between 21–25 years.

12. In *S. Mohammed Hakkim Vs. National Insurance Co. Ltd. And Ors., MANU/SC/0994/2025*, the Hon'ble Apex Court has exercised powers under Section 142 of the Constitution of India and has taken into account the facts that the victim therein, who was 20 years of age at the time of accident, was already in the 3rd year of Engineering College and considered Rs.20,000/- as notional income of the victim therein, and then calculations were made on the said basis.

13. In view of the above submissions, this Court is of the view that, it would be appropriate to consider monthly income of appellant @ Rs. 10,000 per month. With 40% (i.e. Rs.4,000/-) addition towards future prospects, the total monthly income comes to Rs. 14,000/-, i.e. Rs. 1,68,000/- (i.e. Rs.14,000 x 12) per annum. Apart from this, in view of evidence of treating doctor at Exhibit – 36, it would be proper and justified to consider 72% functional disability.

14. Based on the aforesaid discussion, calculation of compensation is as under:-

Sr. No.	Head of Compensation	Amount (Rs.)
1.	Notional Income	Rs. 10,000/- per month
2.	Add: 40% Future Prospects	Rs. 4,000/-
3.	Total Monthly Income	Rs. 14,000/-
4.	Annual Income (Rs. 14,000 $\times$ 12)	Rs. 1,68,000/-
5.	Functional Disability (72%) (Rs. 1,68,000 $\times$ 72%)	Rs. 1,20,960/-
6.	Multiplier 18 (As applied by the Tribunal) (Rs. 1,20,960 $\times$ 18)	Rs. 21,77,280/-
7.	Medical Expenses (As awarded by the Tribunal)	Rs. 6,00,000/-
11.	Total Compensation	Rs. 27,77,280/-
12.	(-) Compensation awarded by M.A.C.T	Rs. 10,32,000/-
13.	Enhanced Compensation (Rs. 27,77,280 – Rs. 10,32,000/-)	Rs. 17,45,280/-

15. In the result, following order is passed :-

ORDER

- A) The appeal is partly allowed.
- B) The impugned judgment and award dated 03.07.2019, passed by the learned member, M.A.C.T, Beed in M.A.C.P. No. 83 of 2015, is modified.

- C)** The respondent Nos. 1 – Insurance Company to pay the enhanced compensation of Rs. 17,45,280/- (Rupees Seventeen Lakh Fourty-five Thousand Two Hundred Eighty Only), to the claimant within 12 weeks from today along with interest @ 9% per annum from the date of registration of claim petition till its realization.
- D)** Modified award be prepared accordingly.
- E)** Claimant to pay court fees on enhanced compensation as per rules.
- F)** On deposit of the amount by respondent No. 1 – Insurance Company, the Tribunal shall disburse the amount to the appellant / original claimant after due identification and verification, and only upon compliance with any deficit court fees, if applicable.

(ABHAY S. WAGHWASE, J.)