



{1}

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO.1013 OF 2021

Balaji S/o. Sudhakar Kamble,
Age: 33 years, Occu.: Nil,
R/o. Harangul (Bk.),
Tq. & District Latur.

... Appellant
(Oirg. Claimant)

Versus

1. Parmeshwardas Govindsingh Parihar,
Age – major, Occu.: Driver,
R/o. Kherwad, Tq. Pichor,
District Shivpuri (Madhya Pradesh)

2. Rohit Singh Tomar,
Age: major, Occu.: Business,
R/o. G – 133, Vasant Apartment,
Old Palam, Gurgaon Road,
District Gurgaon, Haryana.

3. The Oriental Insurance Company,
Through its Branch Manager,
Kokande Complex,
Opp. Sindh Talkes, Latur.

... Respondents
(Orig. Respondents)

.....
Mr. Satish S. Manale, Advocate for Appellant
Mr. R.F. Totla, Advocate for Respondent No.3
.....

CORAM : ABHAY S. WAGHWASE, J.
RESERVED ON : 16 JULY, 2025
PRONOUNCED ON : 29 JULY, 2025

JUDGMENT:-

1. This is an appeal for enhancement of compensation filed by the original claimant, who sustained injuries in a road traffic accident and instituted an injury claim bearing M.A.C.P. No. 147/2017 before the Motor Accident Claims Tribunal, Latur. By its judgment and award dated 01.02.2020, the Tribunal awarded compensation to the tune of ₹26,38,404/- along with interest at the rate of 6% per annum. However, the original claimant, being dissatisfied with the quantum of compensation awarded, has filed the present appeal alleging that he has not been adequately compensated.

BRIEF FACTS GIVING RISE TO THE APPEAL ARE AS UNDER:

2. On 02.08.2016, the appellant/claimant was riding his motorcycle bearing registration No. MH-14-FP-6922 on Dehu-Nigdi Road. While he was waiting at a traffic signal, a container bearing registration No. HR-55-K-5690 came from behind at an excessively high speed and dragged him for a considerable distance, causing severe injuries. He was initially treated at Lokmanya Hospital, Nigdi, and was thereafter shifted to Sainath Hospital, where he allegedly underwent treatment from 08.08.2016 to 24.09.2016.

{3}

3. Learned counsel for the appellant/claimant would submit that, appellant/claimant was a cricket coach and at the time of mishap, was 28 years of age. By rendering cricket coaching to various institutions, he used to earn Rs.25,000/- per month. Moreover, he was income tax payer and returns of which place on record. That, because of road traffic accident, he has suffered 55% permanent disability and as such, thereafter, he could not continue his job of cricket coaching. That, in fact, it was 100% loss of earning capacity. Learned counsel submits that, because of the accident, he had suffered fracture injury to his both lower limbs and was required to undergo medical surgery and required to get admitted in the hospital for longer duration and expend huge amount. Therefore, he set up a claim for compensation to the tune of Rs.75,00,000/- and according to him, the compensation be jointly and severally directed to be paid by respondents No.1 to 3, who are the driver, owner and insurer of the vehicle respectively.

4. Learned counsel submitted that the Tribunal has not considered the case of the claimant in prospective. According to him, the aspect of functional disability has not been considered, and that the medical expenses have also neither been properly

{4}

considered nor appreciated. It is further submitted that the amounts awarded under various heads are meagre, and hence, he urges for enhancement of the compensation.

5. Sum and substance of the claimant's case is that, being an income tax payer and having rendered services as a coach to various institutions, his annual income ought to have been assessed at Rs. 2,85,000/-. However, the learned Tribunal failed to consider and appreciate the same.

6. In answer to above, learned counsel for the insurance company submits that it is an injury claim, and that no evidence has been adduced to prove that the claimant was in fixed employment or receiving a regular salary. It is further pointed out that no salary slip has been placed on record. It is submitted that mere production of income tax returns is not sufficient for determining the annual income. According to him, the Tribunal has correctly assessed the percentage of disability by taking into consideration the evidence of medical expert. Therefore, according to him, the amount awarded by the Tribunal to the tune of Rs.26,38,404/- is just and proper, and there is no need to interfere in the same.

{5}

7. As regards negligence and liability to pay compensation, there is no dispute between the appellant and the respondents. The only issue that needs consideration is whether the compensation awarded by the Tribunal is inadequate or its is just and proper.

8. Heard learned counsel for the appellant/claimant as well as learned counsel for respondent No.3/insurance company. Though served, none appeared for respondents No.1 and 2. Perused the impugned judgment and award.

9. After re-appreciating the evidence and after hearing the above submissions, the only point in the appeal is the claimant's dissatisfaction with not having received the compensation as claimed by him

10. According to the claimant, he was employed as a cricket coach and was earning Rs. 25,000/- per month. However, except producing certificates related to cricket coaching, no salary slip has been placed on record. What has been placed on record is merely the income tax return, that too only for the year 2015-2016 at Exhibit-24. However, it is emerging that the assertion of the claimant that he was engaged by educational institutions to impart cricket coaching and earning salary is not substantiated

by examining any authority from the educational institution. Therefore, in the considered opinion of this Court that the Tribunal was justified in considering his monthly income as Rs.15,000/- and considering the same as a base, computation of annual income has been done.

11. As required under law, the Tribunal, by applying the principles laid down in *National Insurance Company Limited v. Pranay Sethi and Others*, (2017) 16 SCC 680, has considered a distinct component of income under the head of 'future prospects' to the extent of 40% of the income. By applying the appropriate multiplier corresponding to the age group to which the claimant belongs, the loss of income has been derived.

12. The claimant has emphasized that the doctor who has assessed disability i.e. C.W.2 has given 55% disability. However, the same has not been considered, rather the Tribunal has assessed the disability at only 27.5%, to which the claimant has raised objection. As pointed out in paragraph 27, the Tribunal has assigned reasons for calculating the disability at 27.5% by considering the body-wise disability as half of the limb-wise disability, i.e., the affected portion. Therefore, this Court does not find any justifiable reason to disagree with the percentage of

{7}

disability as calculated by the Tribunal. There is nothing to show that there was 100% disability as claimed by the claimant. Therefore, this Court does not find any fault in the manner in which the loss of income has been appreciated by applying the said percentage of disability.

13. As regards to entitlement of future medical treatment is concerned, the Tribunal seems to have appreciated the evidence of doctor (C.W.2), who deposed to that effect in the witness box to that extent. Therefore, the Tribunal has straightaway accepted the sum of Rs. 5,00,000/- towards future medical expenses. The Tribunal has also considered the medical expenses supported by bills from Sainath Hospital as well as Lokmanya Hospital, and has awarded total medical expenses amounting to Rs. 2,64,304/-.

14. It appears that the Tribunal has awarded Rs. 50,000/- towards pain and suffering for the injuries sustained by the claimant, who has undergone multiple surgeries. However, considering the fact that the claimant had to be treated at two different hospitals and he underwent multiple surgeries, the said amount deserves to be enhanced to **Rs. 1,00,000/-**. Therefore, in addition to the quantum awarded by the Tribunal, an amount of

{8}

Rs. 50,000/- needs to be added to the compensation under the head of 'pain and agony'. Hence, I proceed to pass the following order:-

ORDER

(I) The First Appeal is partly allowed with proportionate costs.

(II) Impugned judgment and award dated 01.02.2020, passed by the District Judge-3/Ex-officio Member of M.A.C.T., Latur in M.A.C.P No.147 of 2017 is modified.

(III) Respondent no.3-insurance company to pay enhanced compensation of **Rs.50,000/-** to claimant within 12 weeks from today along with interest @ 6% per annum from the date of registration of claim petition till its realization.

(IV) Modified award be prepared accordingly.

(V) Rest of the award is maintained.

(VI) Claimant to pay court fees on enhanced compensation as per rules.

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

**ABHAY S. WAGHWASE,
JUDGE**