



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
FIRST APPEAL NO.693 OF 2024**

Sk. Rafiq s/o Sk. Abdul Bagwan,
Age: 37 years, Occu: Business
R/o: Pensionpura, Hingoli,
Tq. & Dist. Hingoli

..Appellant
(Ori. Claimant.)

Versus

1. Raju s/o Apparao Vayfalkar,
Age: Major, Occu: Business,
R/o: 6-21-3, Ganpatrao Nagar,
Ardhapur Taluka, Ardhapur,
Dist. Nanded.

2. The New India Assurance Co. Ltd.
Through Branch manager,
Yashodeep Building, Shivaji
Road, Parbhani, Tq. & Dist. Parbhani.

..Respondent
(Orig. Respondent)

...

Mr. Vaibhav B. Dhage, Advocate for the Appellant.
Mr. Ganesh V. Mohekar, Advocate for Respondent No.1.
Mr. S. R. Bodade, Advocate for Respondent No.2.

...

**CORAM : S. G. CHAPALGAONKAR, J.
DATED : 06th FEBRUARY, 2025.**

ORDER:-

1. The appellant/original claimant filed this Appeal for enhancement of compensation against judgment and award dated 25.02.2022 passed by Motor Accident Claims Tribunal, Parbhani in Motor Accident Claims Petition No.58/2017.

2. The appellant/claimant suffered injury in motor vehicular accident dated 20.05.2016 while he was proceeding on motorcycle bearing Registration No.MH-38-M-5088. The motorcycle was

dashed by another motorcycle bearing Registration No.MH-26-AP-9608. As a result of collision between motorcycles, claimant suffered injuries resulting into permanent disablement. He filed claim for compensation under Section 166 of the Motor Vehicle Act. The Tribunal after evaluation of the pleadings of the parties and evidence, passed award for Rs.2,02,615/- alongwith interest @ 6% per annum. The claimant is aggrieved by assessment of the compensation.

3. Mr. Dhage, learned Advocate appearing for the appellant submits that Tribunal has assessed compensation taking notional earning of claimant @ Rs.4500/- per month, although he has specifically pleaded that he was doing tailoring work and earning Rs.6000/- per month. He would further submit that Tribunal failed to add amount towards future prospects. Further, no compensation is granted towards pain, suffering and permanent disablement.

4. Mr. Bodade, learned Advocate appearing for the respondent No.2 vehemently opposes contentions of the appellant. He endeavours to submit that insured vehicle has been falsely implicated. However, he admits that award as passed by the Tribunal has been satisfied.

5. Having considered submissions advanced, it can be observed that respondent/insurer has already satisfied the award as passed

by the Tribunal and accepted the liability to pay compensation. In that view of the matter, only issue that arises for consideration in this Appeal is as to assessment of just compensation on the basis of parameters set up by Supreme Court of India in case of ***National Insurance Company Limited Vs. Pranay Sethi & Ors.***¹.

6. The claimant has specifically pleaded that he was doing tailoring work and earning Rs.6000/- per month. The Tribunal discarded contentions of the claimant for want of evidence regarding his engagement as Tailor. Even accepting that the claimant could not prove engagement in tailoring work, the Tribunal ought to have assessed notional income of the deceased @ Rs.6000/- per month, which could have been in tune with the minimum wages as prescribed under Government Notification. Recently in case of ***Jitendra Vs. Sadiya and Ors (Civil Appeal No.2209/2025 dated 07.02.2025)*** Supreme Court observed that minimum wages notification can be guiding factor to determine the notional income in motor accident claims. Therefore, this Court is of the view that income of the deceased can reasonably be assumed as Rs.6000/- per month. Further, he would be entitled for addition of 40% amount towards future prospects. The Tribunal on the basis of medical evidence of Dr. Gajanan Kale and disability certificate at Exhibit-39 accepted that claimant suffered 15% permanent disablement.

¹ (2017) 16 SCC 680.

7. In facts of the present case, it would be appropriate to consider loss of earning commensurate to the percentage of permanent disablement. The claimant would also be entitled for compensation of Rs.15,000/- towards pain, suffering and permanent disablement. The Tribunal has rightly assessed the compensation towards medical and hospital bills i.e. Rs.16,015/- and 57,000/- respectively.

8. In view of aforesaid discussion, Appeal deserves favourable consideration. The compensation amount can be worked out in tabular form as under:

Sr. No.	Heads	Amount (Rs.)
1	Annual Income (Rs.6000 x 12)	Rs.72,000/-
2	Addition of 40% towards future prospects (Rs.72,000/- + Rs.28,800/-) =	Rs.1,00,800/-
3	15% towards loss of earning, commensurate to the permanent disablement (Rs.1,00,800/- x 15/100)	Rs.15,120/-
4	Apply multiplier of '16' (Rs.15,120/- x 16)	Rs.2,41,920/-
5	Add Rs.15,000/- towards pain, suffering and permanent disablement	Rs.2,56,920/-
6	Add Hospital and Medical Bills (Rs.2,56,920/- + Rs.57000/- + Rs.16,015/-)	Rs.3,29,935/-
TOTAL		Rs.3,29,935/-

9. In that view of the matter, the appeal deserves to be allowed. Hence, following order: -

ORDER

i. The Appeal is partly allowed with proportionate cost.

ii. The judgment and award dated 25.02.2022 passed by Motor Accident Claims Tribunal, Parbhani in Motor Accident Claims Petition No.58/2017 is modified.

iii. The appellant is held entitled to the compensation of Rs.3,29,935/- (Rs. Three Lakhs Twenty Nine Thousand Nine Hundred Thirty Five only) from respondent nos.1 and 2 jointly and severally, (inclusive of amount of 'NFL') alongwith interest at the rate of 6% pa. from the date of filing of the claim petition till realization of the amount.

iv. The amount already paid/deposited by the respondents in pursuance of the impugned judgment and award shall be appropriated.

v. Award be drawn up on payment of deficit court fees.

(S. G. CHAPALGAONKAR)
JUDGE

Devendra/February-2025