



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 3267 OF 2023

Manohar Shamlal Sakharani

VERSUS

Yogita Dnyaneshwar Deshpande And Anr

- Mr. D. R. Markad, Advocate for the Appellant
- Mr. M. R. Deshmukh, Advocate for the Respondent No. 2

CORAM : R. M. JOSHI, J

DATE : JULY 23, 2025

PER COURT :

1. By consent of both sides, heard finally at stage of admission.

2. This Appeal is filed for enhancement of the compensation granted by the Motor Accident Claims Tribunal, Ahmednagar in M.A.C.P. No. 410/2017 by award dated 23.11.2018.

3. Appellant is the Original Claimant who met with motor vehicular accident on 25.08.2017. There is no dispute with regard to the involvement of the motor vehicle in the accident so also negligence on the part of the driver of the car in question. The Appellant sustained injuries and claims that there is 100% loss

of earning capacity. The Tribunal by impugned award granted compensation by holding that disability is accepted to the extent of 20%. On the basis of assessment of the said disability, computation of compensation is done. Being aggrieved by the same, present Appeal is filed.

4. Learned Counsel for the Appellant submits that the medical certificate issued by the competent Doctor indicates that the disability to the extent of 43%, but the same has been wrongly accepted only to the extent of 20% by the Tribunal. It is his submission that having regard to the nature of injuries caused to the claimant, it must be held that the assessment of medical disability would be to the extent of 43%. It is his further submission that the Tribunal ought to have taken into consideration the future prospects and since the same has not been considered, it is a fit case to cause interference in the impugned award and to enhance compensation.

5. Learned Counsel for the Insurer opposes the said contention by pointing out that even before the Tribunal the disability certificate was not proved by

examining the medical officer. It is his submission that only because the Respondent admitted the disability to the extent of 20%, the compensation was granted. According to him, as held by the Hon'ble Supreme Court in case of T. J. Parmeshwarappa alias Parmeshwarappa alia J. T. Parmeshwarappa alias Talalkena Gowdra Parmeshwarappa and Others vs. Branch Manager, Ne India Assurance Company Limited and Others, (2022) 17 SCC 51 that in all cases of personal injuries the loss of future earnings cannot be granted. Similarly, he drew attention of the Court to the observations made by the Hon'ble Supreme Court in case of Uttar Pradesh Road Transport Corporation vs. Vibhor Fialok and Anr, Civil Appeal No(s). 1337-1338/2019.

6. In order to prove the disability, it is incumbent on the part of the claimant to prove the disability certificate by examining the medical officer. Here in this case, admittedly medical officer is not examined, as such, the disability certificate has not been proved. The Tribunal, however, has accepted the disability to the extent of 20%, since same has been admitted by Respondent. In absence of any

evidence to indicate the disability to the extent of 43%, the findings recorded by the Tribunal accepting the disability to the extent of 20% on admission of Respondent, cannot be faulted with.

7. In so far as future prospects of the Appellant is concerned, it would be relevant to take note of paragraph 9 of the judgment in case of T. J. Parmeshwarappa alias Parmeshwarappa alia J. T. Parmeshwarappa alias Talalkena Gowdra Parmeshwarappa and Others (supra), which reads thus:

9. Before proceeding to consider the appeals on merits, it would be useful to refer to the judgment of this Court in Raj Kumar v. Ajay Kumar, authored by Raveendran, J. wherein the general principles relating to compensation in injury cases; assessment of loss of future earnings on account of permanent disability; assessment of compensation in injury cases, have been discussed at length. The relevant paragraphs of the said judgment are extracted as under: (SCC pp.347-50 & 352, paras 5-13 & 19)

"5. The provision of the Motor Vehicles Act, 1988 ("the Act", for short) makes it clear that the award must be just, which means that compensation should, to the extent possible, fully and adequately restore the claimant to the position prior to the accident. The object of awarding

damages is to make good the loss suffered as a result of wrong done as far as money can do so, in a fair, reasonable and equitable manner. The court or the Tribunal shall have to assess the damages objectively and exclude from consideration any speculation or fancy, though some conjecture with reference to the nature of disability and its consequences, is inevitable. A person is not only to be compensated for the physical injury, but also for the loss which he suffered as a result of such injury. This means that he is to be compensated for his inability to lead a full life, his inability to enjoy those normal amenities which he would have enjoyed but for the injuries, and his inability to earn as much as he used to earn or could have earned. [See C.K. Subramania Iyer v. T. Kunhikuttan Nair, R.D. Hattangadi v. Pest Control (India) (P) Ltd. and Baker v. Willoughby

6. The heads under which compensation is awarded in personal injury cases are the following:

Pecuniary damages (Special damages)

(i) Expenses relating to treatment, hospitalisation, medicines, transportation, nourishing food, and miscellaneous expenditure.

(ii) Loss of earnings (and other gains) which the injured would have made had he not been injured, comprising:

(a) Loss of earning during the period of treatment;

(b) Loss of future earnings on account of permanent disability.

(iii) Future medical expenses.

Non-pecuniary damages (General damages)

(iv) Damages for pain, suffering and trauma as a consequence of the injuries.

(v) Loss of amenities (and/or loss of prospects of marriage).

(vi) Loss of expectation of life (shortening of normal longevity).

In routine personal injury cases, compensation will be awarded only under heads (i), (ii)(a) and (iv). It is only in serious cases of injury, where there is specific medical evidence corroborating the evidence of the claimant, that compensation will be granted under any of the heads (ii) (b), (iii), (v) and (vi) relating to loss of future earnings on account of permanent disability, future medical expenses, loss of amenities (and/or loss of prospects of marriage) and loss of expectation of life.

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8. These observations clearly indicate that in routine personal injury cases, compensation will be awarded only under heads (i), (ii)(a) and (iv). It is only in serious cases of injury, where there is

specific medical evidence corroborating the evidence of the claimant, that compensation will be granted under other heads.

9. Since in this case there is no medical evidence led by the Appellant, question of granting said compensation does not arise. In the result, Appeal must fail. Accordingly, Appeal stands dismissed. Pending Civil Application, if any, stand disposed of.

(R. M. JOSHI, J.)