



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 4253 OF 2023

The Oriental Insurance Company Ltd.
Through Branch Manager
1st floor, Sai Square, Gopal Tea corner
Osmanpura, Aurangabad

...Appellant
(Ori. Resp. No.3)

Versus

1. Malhari Gangadhar Waghmode
Age 51 years, Occ. Agriculture
R/o. Pachunda, Taluka Newasa
District Ahmednagar
2. Vedant Tours and Travels
Through Prop. Kiran S. More
Age major, Occ. Business,
C/o. Nandkishor Vighane
Mauli Housing Society, S. No. 93,
Vitthalwadi, Dehugaon, Pune
3. Suresh Arjun Koli
Age major, Occ. Driver
R/o. C/o. Nandkishor Vighane
Mauli Housing Society, S. No. 93,
Vitthalwadi, Dehugaon, Pune
or
R/o. Omkar Housing Society
Road No.6, Near Hanuman
Mandir, Sudarshan Nagar,
Chikhali, Pune 412 114

...Respondents

.....
Mr. R. F. Totla, advocate for the appellant
Mr. V.B. Jagtap, advocate for respondent No.1
.....

CORAM : SANJAY A. DESHMUKH, J.
DATED : 14.11.2025

ORDER :-

1. This appeal is preferred against the judgment and award dated 20.3.2019 passed by the Member, Motor Accident Claims Tribunal, Ahmednagar, in Motor Accident Claims Petition No. 63 of 2017.

2. The claimant is shepherd and agriculturist. While he was proceeding in a vehicle bearing No. MH-17-BD-3790 for Pandharpur Darshan, one car bearing No. MH-14-FC-7178 of the respondent No.2 gave a forcible dash to the his vehicle. The claimant sustained serious injuries to his both the legs. He was operated and admitted for about 30 to 35 days. He was indoor patient. The crime was registered against the driver of the offending vehicle, bearing No. 247 of 2017. He sustained 80% permanent disability. Therefore, he prayed for compensation.

3. Respondent No.3 Insurance Company denied the claim, age, occupation, income, sustaining of loss of income and permanent physical disability. It is submitted that there is breach of terms and conditions of policy. It is lastly prayed to dismiss the claim petition.

4. The learned Tribunal by framing six issues held that due to rash and negligent driving, the permanent disability and entitlement

for the compensation is proved. It is held that respondent No.3 failed to prove breach of the terms and conditions of insurance policy.

5. The grounds of objections of this appeal are that owner of the car has committed breach of the policy conditions as the driver of the car was not holding valid driving licence. This aspect was not properly considered by the Tribunal. The Tribunal has not considered that the applicant is more than 50 years old and therefore, multiplier should be 11, however, wrongly the multiplier 15 is applied. An exorbitant amount of compensation is awarded. Therefore, it is lastly prayed to allow the appeal and set aside the impugned judgment and award.

6. Perused the impugned judgment and award.

7. The following points emerged for consideration:-

- I) Was the Tribunal incorrect and illegal in holding that there was no breach of condition of the policy while answering issue No.3?
- II) Was the Tribunal incorrect and illegal while considering the age, applying multiplier and awarding the amount of compensation to the claimant?

III) What order?

8. As far as the breach of condition of the insurance policy of the offending vehicle i.e. car is concerned, to establish that, the driver of offending vehicle was not holding valid driving licence the Insurance company did not adduce any evidence. In para 18 of the impugned judgment, the learned Member of the Tribunal has rightly held that there no such evidence of breach of terms and conditions of the insurance policy by the respondent No.3. Therefore, issue No.3 was rightly decided by the Tribunal on merits in negative.

9. As far as the age, earning capacity and awarding of amount of compensation is concerned, the learned Tribunal in its judgment in para 17 held that disability of 80% is proved by the Civil Surgeon Dr. Pandit, which was not seriously disputed by the Insurance Company during his cross examination. Thus, physical as well as functional disability of 80% is proved.

10. As far as the age of the claimant is concerned, he is illiterate and there is no age proof on record. However, the learned Tribunal in para 19 of the impugned judgment has rightly come to the conclusion that multiplier of 13 would be the proper multiplier. While concluding the monthly income of the claimant, the learned Tribunal has rightly

come to the conclusion that monthly income of the claimant for Rs.8050/- is proper, which is neither exorbitant nor less but it is reasonable amount. The learned trial court in para 20 of the impugned judgment relied upon the bills of medical expenses of Rs.70500.00 which are proved by Dr. Pandit, Pharmacist and the servants in the medical shop. The said evidence is proved by the list of receipts and bills of medical expenses with list at Exh.32 i.e. for Rs.3,00,000.00 wherein the expenses of hospitalization and other expenses are included. The learned Tribunal in para 22 also rightly concluded that attendance charges of Rs.1,60,000.00 would be proper charges. The learned Tribunal granted an amount of Rs.12,55,800.00 as compensation on account of permanent physical disability. Amount of Rs.86,000.00 and Rs.70,500.00 towards medical expenses. Amount of Rs.3,00,000.00 towards bills of medical treatment. Amount of Rs.40,000.00 for Jaipur foot. The amount of Rs.1,00,000.00 towards claim for future medical expenses. The amount towards pains, suffering and trauma Rs.1,00,000.00. The amount of Rs.1,00,000.00 towards loss of amenities. The amount of Rs.2,00,000.00 towards loss of expectation of life. The amount of Rs.1,60,000.00 for attendance charges. Thus, the total amount of compensation comes to Rs.24,12,300.00. The Tribunal has granted an amount of Rs.24,15,800.00 to the claimant. The rate of interest is properly calculated and amount of future

prospects is also properly carved out. The amount of Rs.3,500.00 is excessively calculated and awarded to the claimant. To this extent, the impugned judgment and award deserves to be partly set aside. Therefore, point Nos. 1 to 3 are answered accordingly in negative. The appeal deserves to be partly allowed. Hence, the following order:-

O R D E R

- I. The first appeal is partly allowed and judgment and award of the learned Tribunal is modified as under:-
- II. Instead of amount of Rs.24,15,800.00 the claimant is entitled for amount of Rs.24,12,300/-.
- III. The award be drawn up accordingly.

(SANJAY A. DESHMUKH, J.)

rlj/