IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

950 FIRST APPEAL NO. 640 OF 2017

Ramesh S/o Manik Marathe,
Age : 50 Years, Occ. Nil,
R/o. Hudco Colony, Dondaicha,
Taluka Sindkheda, Dist. Dhule .. Appellant
(Original Claimant)

VERSUS

1. National Insurance Co. Ltd.,
Branch Office at Dhule,
Taluka and Dist. Dhule
Local Address : Divisional Office,
Hazari Chambers, Station Road,
Aurangabad – 431 005

2. Sanjay S/o Ranchhodbhai,
Age : Adult, Occ. Onwer of vehicle,
R/o. Dondaicha, Ta. Sindkheda,
Dist. Dhule. .. Respondents
(Original Respondents)

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Advocate for Appellant : Adv. Kazi Sabahat T.
Advocate for Respondent No.1 : Mr. S. V. Kulkarni
Advocate for Respondent No.2 : Mr. Sandip P. Rathod

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CORAM : SANDIPKUMAR C. MORE, J.
DATED : FEBRUARY 25, 2025

JUDGMENT:-

1. Heard rival submissions.

2. The present appeal is filed by the appellant, who is the original claimant, for enhancement of compensation by challenging the judgment and award dated 26.06.2015, passed

in Motor Accident Claim Petition No. 539 of 2011, by the learned Member, Motor Accident Claims Tribunal, Dhule. (hereinafter referred to as ‘ the learned Tribunal).

3. The learned counsel for the appellant/claimant submits that, the learned Tribunal has granted meager amount of compensation by wrongly considering the income of the appellant only to the tune of Rs. 5,000/- per month. According to her, the learned Tribunal should have considered the income of appellant to the tune of Rs. 8,000/- to Rs. 10,000/- per month as he was owner and driver of mini-door vehicle. Further, according to her, the learned Tribunal also did not consider the percentage of disability in proper manner and also failed to consider the medical expenditures.

4. On the contrary, the learned counsel for the contesting respondent/Insurance Company supported the impugned judgment and submitted that, the learned Tribunal has properly appreciated the evidence on record and granted just and proper compensation.

5. It is significant to note that the learned Tribunal has granted amount of Rs.3,83,000/-towards the total compensation amount, including the award under Section 140

of the Motor Vehicles Act, 1988 along with the interest @ 7.5 per annum from the date of petition till its realization.

6. The learned counsel for the respondent No.1/Insurance Company submitted that the aforesaid award has already been satisfied. The learned counsel for the appellant also submitted that the appellant has already withdrawn the compensation amount deposited by the Insurance Company.

7. The present appeal is filed for enhancement of compensation amount. The learned counsel for the appellant is claiming that, the appellant was driver and owner of mini-door vehicle and was getting monthly income of Rs. 8,000/- to 10000/-. However, except the R.C. Book of the said mini-door vehicle, nothing is produced on record by the appellant in support of his aforesaid income. As such, the learned Tribunal has calculated his monthly income to the tune of Rs. 5,000/- being a skilled worker. In absence of any supporting document regarding the income of the appellant, the aforesaid income as held by the learned Tribunal appears proper.

8. The learned counsel for the appellant pointed out that the learned Tribunal has not assessed the percentage of disability and loss of income thereof in proper manner. On

going through the impugned judgment, it appears that the learned Tribunal has calculated the amount of compensation by considering the permanent disability to the extent of 30%. However, the learned Tribunal, by also considering the additional 20% disability, granted only Rs.20,000/- besides the earlier compensation. It is to be noted that, when the learned Tribunal had already come to the conclusion that there was additional 20% disability, then it should have included the same in the permanent disability of 30%. It is to be noted that the head injury sustained by the appellant/claimant must have been recovered partially or permanently. Therefore, the additional 20% disability in respect of head injury can be taken as 10% permanent disability while computing the amount of compensation.

9. Thus, buy considering the permanent disability to the extent of 40%, the amount of compensation can be calculated. Admittedly, the monthly income of the appellant is taken as Rs. 5,000/-. As such, he was getting annual income of Rs. 60000/- If we apply 40% disability to the aforesaid income, then future loss of income comes to Rs. 24,000/- per annum. There is no dispute about the proper multiplier being of ‘13’. As such, the total future loss of income comes to Rs.

3,12,000/- (24000x13).

10. Though the learned counsel for the appellant claimed that appellant had to spent amount of Rs.1,00,000/- to 1,60,000/- towards the medical expenses, but the receipts in respect of the same show that such medical expenses are only to the extent of Rs. 54,000/-. Further, the learned Tribunal has already granted reasonable amount of Rs. 50,000/- towards pain and suffering. Even amount of Rs. 25,000/- has granted for future medical treatment. As such, the learned Tribunal has granted reasonable amount under these heads. Thus, the compensation needs to be enhanced only in respect of future loss of income, which comes to Rs.3,12,000/-. Thus, the enhancement amount of compensation comes to Rs.58,000/-(3,12,000 – 2,54,000). Thus, the appellant is now entitled for enhance compensation of Rs. 58,000/-(Rs. Fifty Eight Thousand only) along with the interest @ of 7.5% per annum from the date of petition till its realization.

11. The respondent No.1/Insurance Company is therefore directed to deposit the aforesaid amount of enhanced compensation within six weeks from the date of this order in this Court. If such amount is deposited, the appellant/claimant is permitted to withdraw the same along

with the accrued interest thereon without further reference of this Court.

12. Award be prepared accordingly.

13. Appeal stands disposed of.

(SANDIPKUMAR C. MORE, J.)

Y.S. Kulkarni