

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO. 519 OF 2012

Shashikant Kakasaheb Mane
Aged-41 yrs, Occ.-Nil
Residing at Visapur, Tal-Tasgaon,
Dist-Sangli

...Appellant
(Original Claimant)

Versus

1. New India Insurance Company Ltd
City Branch Office, Guruwar Peth,
Sangle Sadan, Satara.
Through its Divisional Manager
Division Office,
The New India Insurance Compay Ltd,
Near Tata Petrol Pump, Sangli..

2. Ashok Shivaji Shinde
Aged Major, Occ. -Driver.
Resident at Village Ranand, Tal. Matha,
Dist. Satara.

...Respondents
(Original non-applicants)

.....
Mr. Mayank Tripathi (through VC) a/w Mr. Vaibhav Arage i/by
Mr. Bhushan Walimbe for Appellant.

Ms. Karishma Jhaveri (Through VC) for the Respondents.

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CORAM : SHIVKUMAR DIGE, J.
DATE : 12th NOVEMBER, 2025

ORAL JUDGMENT:

1. This appeal is preferred by the Appellant - Claimant against the Judgment and order passed by Motor Accident Claim Tribunals, Sangli (For short "The Tribunal").

2. It is contention of learned counsel for the Appellant-Claimant that due to accidental injury, the claimant has suffered 63% permanent physical disability. The Tribunal has dismissed the claim petition of the claimant on the ground that the accident occurred due to negligence of the claimant as he dashed the offending vehicle which was parked on the side of the road. Learned counsel further submitted that due to accidental injury, the claimant has suffered 63% permanent physical disability. He has closed his business. He was earning Rs.22,000/- per month. He was admitted in the hospital for couple of days. Hence, requested to allow the appeal.

3. It is contention of learned counsel for Respondent No.1 - Insurance Company that the offending vehicle was parked on the left side of the road. The claimant, who was riding motorcycle gave dash to the said vehicle from backside. The accident occurred due to sole negligence of the claimant. The Tribunal has passed well reasoned order. No interference is required in it and requested to dismiss the Appeal.

4. I have heard both learned counsel, perused impugned Judgment and order passed by the Tribunal. It is claimant's case that on 12th April 2006, the claimant Shashikant was riding his motor cycle. The offending vehicle came in rash and negligent manner from opposite side. It was in high and excessive speed and gave dash to the motorcycle of the claimant. Due to dash, the appellant suffered grievous injuries. The offence was registered against driver of offending truck. To prove the negligence of driver of offending truck, the claimant has examined himself. He has stated that accident occurred due to sole negligence of the driver of offending truck. In cross examination, he admits that the said truck was stationed on the side of road. It is contention of learned counsel for the appellant that while dealing with the issue of negligence, the Tribunal has observed that the said truck was stationed on the side of road and the appellant gave dash to the stationed truck. The accident occurred due to sole negligence of the appellant, on that ground, the Tribunal has dismissed the claim petition.

5. I am unable to understand the observations of the Tribunal, as the driver of offending truck has been convicted by learned JMFC for the offence registered against him. Moreover, the driver of offending truck did not step into witness box to prove the negligence

of the appellant - claimant. If for the sake of convenience, it is admitted that offending truck was stationed on the road, the accident occurred between 6:30 to 7:30 p.m., it was twilight. As per Rule 109 of the Central Motor Vehicles Rules, 1989, proper precautions are necessary to be taken. It is obligation on the driver of parked vehicle to put on parking lights or indicators of said truck.

“ Section 15 in the Rules of the Road Regulations, 1989:

15. Parking of the vehicle:-

(1) Every driver of a motor vehicle parking on any road shall park in such a way that it does not cause or is not likely to cause danger, obstruction or undue inconvenience to other road users and the manner of parking is indicated by any sign board or markings on the road side, he shall park his vehicle in such manner.

(2) A driver of a motor vehicle shall not park his vehicle:

- (i) at or near a road crossing, a bend, top of a hill or a humpbacked bridge;
- (ii) on a foot-path;
- (iii) near a traffic light or pedestrian crossing;
- (iv) in a main road or one carrying fast traffic;
- (v) opposite another parked vehicle or as obstruction to other vehicle;
- (vi) alongside another parked vehicle;
- (vii) on roads or at places or roads where there is a continuous white line with or without a broken line;
- (viii) near a bus stop, school or hospital entrance or blocking a traffic sign or entrance to a premises or a fire hydrant;
- (ix) on the wrong side of the road;
- (x) where parking is prohibited;
- (xi) away from the edge of the footpath.”

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“Regulation 28 of the Motor Vehicles (Driving) Regulation:

Vehicle breakdown:

In case a vehicle with more than two wheels has broken down at a place where it can be recognised in time as a stationary obstacle,-

- (i). the hazard warning lights of the vehicle shall be switched on immediately;

(ii). on highways and major roads with fast speed, reflective traffic warning triangles shall be placed at a distance of fifty meters behind the broken-down vehicle; and In present case, it shows that the driver of the said Truck has clearly violated all the rules and regulations of the Central Motor Vehicle Rules, Motor Vehicle Rules and the Rules of the Road and Regulation, 1989, and Regulations made under the Act.”

.....

“When any vehicle is stationed on the road at night time, as per **Rule 109 of the Central Motor Vehicles Rules, 1989**, proper precautions are necessary to be taken. It reads thus:-

109. Parking light:-

[Every construction equipment vehicle, combine harvester and motor vehicle] and every motor vehicle other than motor cycles and three wheeled invalid carriages shall be provided with one white or amber parking light on each side in the front. In addition to the front lights, two red parking lights one on each side in the rear shall be provided. The front and rear parking lights shall remain lit even when the vehicle is kept stationary on the road:

Provided that these rear lamps can be the same as the rear lamps referred to in rule 105 sub-rule (2): [Provided also that construction equipment vehicles [and combined harvesters], which are installed with food light lamps or sports lights at the front, rear or side of the vehicle for their off highway or construction operations, shall have separate control for such lamps or lights and these shall be permanently switched of when the vehicle is travelling on the road.]”

5. These rules state that front and rear parking lights shall remain lit when the vehicle is stationed on the road. In the present case, the truck was stationed on the road but no parking lights were on. It shows that the driver of said truck has clearly violated the rules and regulations of the Central Vehicles Rules. Considering these facts, I hold that the accident occurred due to sole negligence of the driver of offending truck. It is claimant’s case that due to accidental injury, he has suffered 63% permanent physical disability. To prove it, the

claimant has examined PW-2 Dr. Amol Langade at Exhibit 57. He has stated that the claimant was admitted in his hospital and he was operated for the fracture of right leg. Nothing is elicited in the cross examination of the said witness. The claimant has examined PW-3, Dr.Satish Patil. He has issued 63% permanent physical disability certificate to the claimant after examining him clinically and radiologically. In cross examination, he admits that all operations have been done on the appellant-claimant were successful. In cross examination, the Doctor stated that the disability caused to the claimant is more than amputation and the disability is given for whole body. It is claimant's case that he was doing business and earning Rs.22,000/- per month. To prove it, he has examined PW-4 Namdev Korhale, Branch Manager, Dharmveer Sambhaji Co-operative Bank Ltd. He has stated that claimant has repaid the bank loan and he was paying EMI of the bank. PW-5, Feroz Havaladar, Branch Manager of Choramandalam Investment and Finance Company Ltd. has stated that the claimant had taken loan of Rs.6,22,000/- for purchasing vehicle and he was paying Rs.21,013/- as monthly installment. The claimant has examined PW-6 Sanjay Shejwal, Branch Manager of Ganesh Bank. He has stated that the claimant had taken loan for business purpose and repaid it within a year. It appears from

record that the claimant was doing business and after the accident, he had to stop his business due to permanent physical disability, so his functional disability is 100%. Considering the evidence on record, I am considering Rs.10,000/- as monthly income of the Appellant-Claimant.

6. As per the view of the Hon'ble Apex Court in the case of **National Insurance Company Limited Vs. Pranay Sethi 2017 ACJ 2700 (SC)**, the claimant is entitled to 40% future prospects.

7. The proper multiplier is '16' as at the time of accident, the claimant was 35 years old. Considering the nature of injuries, I am considering Rs.25000/- for loss of amenities, Rs.25,000 for pain and suffering, Rs.2,20,000/- for medical expenses, Rs.25000/- for Special Diet Transport and Conveyance, Rs.15000/- for attendant charges and Rs.73,500/- for actual loss of income for 105 days.

8. Considering the above calculations, the claimant is entitled for following compensation:

Particulars	Amount
Annual Income	1,20,000/-
Future Prospects 40% 1,20,000/- X 40%	48,000/- Yearly.
Multiplier as "16" as the age of the claimant was 35 years Total loss of Income 1,20,000 + 48,000 = 1,68,000/- 1,68,000 X 16 = 26,88,000/-	26,88,000/-

Pain and Suffering	25,000/-
Loss of amenities	25,000/-
Medical expenses	2,20,000/-
Special Diet, Transport and Conveyance	25,000/-
Attendant charges	15,000/-
Actual loss of income for 105 days	73,500/-
Total Compensation	Rs.31,19,500/-

9. In view of the above, I pass following order :

ORDER

(i) The Appeal is allowed.

(ii) The Appellant-claimant is entitled for compensation amount of **Rs.31,19,500/-** at the rate of **7.5%** per annum from the date of filing claim Petition till realisation of amount;

(iii) The Respondent No.1 - Insurance Company shall deposit the compensation amount along with accrued interest thereon, within six weeks from the date of receipt of this order;

(iv) The claimant is permitted to withdraw the deposited amount along with accrued interest thereon;

(v) The claimants shall pay deficit Court fees on compensation amount, if any, as per Rule;

(vi) Record and Proceedings be sent back to the Tribunal.

10. The Appeal is disposed off in the aforesaid terms.

11. All pending applications, if any also stand disposed off.

(SHIVKUMAR DIGE, J.)