

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 1667 OF 2007

Ajit Vasant Athawale Age – 31, Occu. Education R/o. Kokale, Tal. Kavathe Mahankal, Dist. Sangli	... Appellant
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Versus

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| <p>1 Sadashiv Tatoba Patil
 Age Major, Occu – Owner / driver
 R/o. Samtanagar, Kupwad, Tal. Miraj, Dist. Sangli</p> <p>2 The New India Assurance Co. Ltd.
 Opposite ST Stand, Sangli (Policy No.
 31153300/13678, valid from 6-5-2000 to 5-5-2001)
 Through its Division office at Mata Building,
 Ambedkar Road, Sangli</p> | <p>... Respondents</p> |
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Mr. Tejpal S. Ingle, Advocate for the Appellant.

Smt. Urmila K. Sanil, Advocate for Respondent No.2/Insurance Company.

CORAM : SHIVKUMAR DIGE, J.

DATED : 13th JUNE, 2025.

ORAL JUDGMENT :

1. By this appeal, the appellant is seeking enhancement of compensation.

2. It is contention of learned counsel for the appellant that the appellant has suffered 35.83% disability due to accidental injuries. He was SSC pass. The Tribunal has considered his yearly income @Rs.1,500/- per year which is on lower side. The Tribunal has not awarded future

prospects and medical expenses and multiplier has not been applied hence requested to allow the appeal.

3. It is contention of learned counsel for the respondent No.2/ Insurance Company that accident occurred due to contributory negligence of the appellant as he was riding pillion on the motorcycle. The disability of the claimant has not been proved. He was SSC pass. The Tribunal has passed well reasoned Judgment and Order which is legal and valid and requested to dismiss the appeal.

4. I have heard both the learned counsel. Perused Judgment and order passed by the Motor Accident Claims Tribunal, Sangli (for short “**the Tribunal**”). Admittedly, the claimant was pillion rider on motorcycle. The Tribunal has considered 50% contributory negligence of the claimant. I am unable to understand when claimant was pillion rider then how he can be considered 50% contributory negligence. Hence, I am setting aside the observations about 50% contributory negligence of the claimant. The appellant/claimant was SSC pass on that basis the Tribunal has considered his income @Rs.1,500/- per year. In my view, the appellant was SSC pass. The Tribunal should have considered his yearly income @Rs.24,000/- per year. Hence I am considering income of the appellant /claimant @Rs.24,000/- per year. The Tribunal has not awarded future prospects. I am considering it 40% as he has suffered more than 35% disability due to

accidental injuries. The Tribunal has not awarded compensation for pain and suffering, I am considering at Rs.50,000/-. The Tribunal has awarded Rs.19,761/- for medical expenses. No compensation is awarded for future medical expenses I am considering it at Rs.15,000/-. The Tribunal has not awarded amount for attendance and conveyance, I am considering it at Rs.10,000/- each the Tribunal has not awarded compensation for special diet & nourishment, I am considering it at Rs.10,000/-.

Considering the above calculations, the appellant/claimant is entitled for following compensation :

Particulars	Rs.	Entitlement
Yearly Income	Rs.	24,000/-
40% Future Prospects	Rs.	33,600/-
Multiplier (17 X 33600)	Rs.	5,71,200/-
Pain & Suffering	Rs.	50,000/-
Medical Expenses	Rs.	19,761/-
Future Medical Expenses	Rs.	15,000/-
Attendants	Rs.	10,000/-
Conveyance	Rs.	10,000/-
Special Diet and Nourishment	Rs.	10,000/-
Total	Rs.	6,85,961/-
Less awarded	Rs.	62,131/-
Total Enhanced amount	Rs.	6,23,830/-

Thus the claimant is entitled for enhanced compensation of Rs.6,23,830/-.

5. In view of above, I pass following order.

ORDER

- i. The appeal is allowed.
- ii. The appellant / claimant is entitled for enhanced amount of Rs.6,23,830 /- @ 7.5% interest per annum from the date of filing of claim petition till realisation of the amount.
- iii. The respondent No.2-Insurance Company shall deposit the enhanced amount along with accrued interest thereon within eight weeks from the receipt of this order.
- iv. The appellant / claimant is permitted to withdraw the deposited amount along with accrued interest thereon.
- v. The appellant / claimant shall pay deficit court fees on enhanced amount as per rule.
- vi. R & P be sent back to the Tribunal.

6. The appeal is disposed of. All pending applications, if any, also disposed of.