

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 788 OF 2009

Kumar Yash @ Harsh Suresh Lengare
Age 7 years, Minor, through Natural Guardian-
Father

Shri Suresh Vishwanath Lengare
Age 48 years, Resident of Yeshwantnagar,
Road No.4, Vita, Taluka Khanapur, Dist. Sangli

... Appellant

Versus

1 Rajaram Balkrishna Gidde
Adult, Occupation : Business,
R/o. Saraswati Building, Main Road, Vita,
Taluka Khanapur, Dist. Sangli

2 The New India Assurance Co. Ltd.
Vita Branch, "Bilwadal", Opp. Prasad Theatre, Vita,
Tal. Khanapur, Dist. Sangli

... Respondents

.....

Mr. Tejpal S. Ingale, Advocate for the Appellant.

Ms. Vishwali V. Botle i/b. Mr. A.R.Gole, Advocate for Respondent No.1.

CORAM : SHIVKUMAR DIGE, J.

DATED : 23rd JULY, 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 at the time of accident, the claimant was six years old and due to accidental injuries, he has suffered 45% disability but the Tribunal has awarded compensation

on lower side and has not awarded compensation under other heads, hence requested to allow the appeal.

3. It is contention of learned counsel for the respondent No.1 that at the time of accident, the claimant was six years old. The disability suffered by the claimant is united. The Tribunal has considered all the aspects, on that basis Judgment and Order is passed which is legal and valid. No interference is required in it, and requested to dismiss the appeal.

4. Though respondent No.2 served, none present for respondent No.2. The appeal is of year 2009, I am deciding it on merit.

5. Admittedly, at the time of accident, the claimant was six years old and he has suffered 45% permanent physical disability. His disability has not been challenged by the Insurance Company. As per the view of Hon'ble Apex Court in the case of *Master Mallikarjun V/s. Divisonal Manager, the National Insurance Company Limited and Anr.*¹, the claimant is entitled for Rs.3,00,000/- as compensation amount. The Tribunal has awarded Rs.3,05,000/- which is proper. Learned counsel for appellant submitted that it includes medical and incidental expenses of Rs.25,000/- and Rs.85,000/- for medical and incidental expenses, I am considering Rs.85,000/- and Rs.25,000/- as enhanced amount.

The Tribunal has not awarded future medical expenses, I am considering Rs.50,000/- for it.

¹ 2013 AIR SCW 6452

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

Particulars	Rs.	Amount
As per view of <i>Master Mallikarjun (supra)</i>	Rs.	3,00,000/-
Discomfort, inconvenience and loss of earning to the parents during the period of hospitalization	Rs.	25,000/-
Medical and incidental expenses during the period of hospitalization	Rs.	85,000/-
Future Medical Expenses	Rs.	50,000/-
Total	Rs.	4,60,000/-
Awarded by Tribunal	Rs.	3,05,000/-
Enhanced compensation	Rs.	1,55,000/-

The appellant/claimant is entitled for enhanced compensation of Rs.1,55,000/-.

7. 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.1,55,000/- @ 7.5% interest per annum from the date of filing of claim petition till realisation of the amount.
- iii. The respondent -Insurance Company shall deposit the enhanced amount along with interest within six weeks

after receipt of the order.

- iv. The claimant is permitted to withdraw the enhanced amount deposited by the Respondent -Insurance company along with accrued interest thereon.
- v. The appellant/claimant shall pay the deficit Court fees on enhanced amount as per rule.

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

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(SHIVKUMAR DIGE, J.)