IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO. 2094 OF 2007

Laxman Anant Kesarkar
Aged : 56 years, Occ: Advocate
residing at 49-E, Laxmi Kripa
Tembalaiwadi, Kolahpur,
District: Kolhapur ….Appellant

Versus

1. Kavaji Dhondiram Kadam
age: Major, Occu: Agriculture,
residing at Uchgaon, Taluka: Karvir,
District: Kolhapur

2. The New India Assurance Company
Ltd, Divisional Office, Opposite
of Parvati Talkies, Kolhapur ….Respondents

Mr. Sudhakar G. Thorat, Advocate for the Appellant.
Ms. Shalini S. a/w Mr. Avesh Ghadge for Respondent No.2 – Insurance Company.

CORAM : SHIVKUMAR DIGE, J.

DATE : 27th NOVEMBER, 2025.

ORAL JUDGMENT:

1. By this appeal, the appellant is claiming enhancement of compensation, it is against the Judgment and Order dated 26th April 2007 passed by Motor Accident Claims Tribunal at Kolhapur (for short “The Tribunal).

2. It is contention of learned counsel for the appellant that appellant was practicing advocate. Due to accident, he has suffered 45% permanent disability but his functional disability is 100%. The Tribunal has awarded lumsum compensation of Rs. 50,000/- which is on lower side. The appellant was well known advocate and he was earning Rs. 10,000/- per month. He was admitted in the hospital for 137 days and he had been treated by three doctors. The Tribunal has not awarded compensation under other heads. The multiplier is not applied and future prospects are not given. Hence, requested to allow the appeal.

3. It is contention of learned counsel for the respondent no. 2-Insurance company that no evidence is produced on record to show the income of the appellant. After accident, the appellant continued his practice. There is continuation of income. There is no actual loss of the appellant. The Tribunal has passed well reasoned order and no interference is required in it. Hence, requested to dismiss the appeal.

4. I have heard both the learned counsel. Perused the impugned Judgment and Order passed by the Tribunal. It is claimant's case that due to accidental injuries, he has suffered 45% permanent physical disability. The said disability is not challenged by the insurance company. Hence, I am considering the same disability. It

is claimant's case that he was practicing advocate at Kolhapur and earning Rs. 10,000/- per month. After the accident, he has stopped his practice. He has incurred Rs. 1,10,000/- for medical expenditure, Rs. 25,000/- for nursing, Rs. 1,25,000/- for travel and attendance and he will require Rs. 80,000/- for future medical expenses. While awarding compensation, the Tribunal has awarded lumsum compensation of Rs. 50,000/-. I am unable to understand the observations of the Tribunal about granting lumsum compensation. The appellant has suffered 45% physical disability. He was advocate. The record shows that he was hospitalized for 137 days and his leg is shortened. Though the appellant is claiming that he was earning Rs. 10,000/-, but no evidence is produced on record in that regard. Considering the evidence on record, I am considering Rs. 7,000/- per month as monthly income of the appellant. From the record, it is proved that appellant has spent Rs. 1,02,052/- for medical expenses. Hence, I am considering this amount for medical expenses. I am considering Rs. 25,000/- for pain and sufferings, Rs. 5000/- for special diet, Rs. 5000/-, for loss of amenities in life, Rs. 5000/-, attendant charges, Rs. 5000/- for conveyance charges, Rs. 35,000/- for loss of earning during treatment. The appellant is entitled for 25% future prospects and multiplier is 13.

5. Considering above calculations, the appellant-claimant is entitled for following compensation:

Monthly income	Rs. 7000/-
Yearly income	Rs. 84,000/-
Add 25% future prospects	Rs. 21,000/-
Total	Rs. 1,05,000/-
Multiplier 13 (Rs. 1,05,000/- X 13)	Rs. 13,65,000/-
Considered functional disability 45% on total amount	Rs. 6,14,250/-
Total per annum income	**Rs. 6,14,250/-**
Medical expenses	Rs. 1,02,052/-
Pain and suffering	Rs. 25,000/-
Special diet	Rs. 5000/-
Loss of amenities	Rs. 5000/-
Attendant charges	Rs. 5000/-
Conveyance chargers	Rs. 5000/-
Loss of Earning during treatment	Rs. 35,000/-
Total compensation	**Rs. 7,96,302/-**
Less Awarded by the Tribunal	Rs. 2,19,452/-
Enhanced compensation	**Rs. 5,76,850/-**

6. In view of above, I pass following Order:

O R D E R

I. The Appeal is allowed.

II. The appellant-claimant is entitled for enhanced compensation of **Rs. 5,76,000/-** at the rate of 7.5% per annum from the date of filing the claim petition till realization of the amount.

III. The Respondent No. 2-Insurance Company shall deposit enhanced compensation amount along with accrued interest thereon, within period of eight weeks from the date of 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, if any, as per Rule.

VI. Record and proceedings be sent back to the Tribunal.

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

(SHIVKUMAR DIGE, J.)

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