

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE SIDE JURISDICTION**

**FIRST APPEAL NO. 92 OF 2006**

Shri. Shivaji Tukaram Kekare  
Aged 33 years. Occ. Centring,  
Business Contractor, residing at Kodoli,  
Housing Society, Near Guruprasad Beer Bar,  
Kodoli, Taluka Panhala, Dist. Kolhapur

....Appellant

**Versus**

1. Ramdas Akaram Patil,  
Aged Major, Occu. Business,  
Resident of Shahapur, Taluka Panhala,  
Dist. Kolhapur.

2. The New India Assurance Co. Ltd.,  
Divisional Office, Near Parvati,  
Taluka, Kolhapur.

... Respondents.  
(Orig. Opponents)

Issuing Office-Branch Kodoli,  
Tal. Panhala, Dist. Kolhapur,  
Policy No. 3115230216522,  
Valid period from 27<sup>th</sup> June 2000 to  
26<sup>th</sup> June 2001. Driving Licence No. of  
Driver of MH-09-X-99-692, date of issue  
29<sup>th</sup> November 1999 valid  
upto 20<sup>th</sup> November 2019

....(Orig. Opponents)

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Mr. Sudhakar G. Thorat, Advocate for the Appellant.  
Smt. Urmila K. Sanil, Advocate for the Respondent No.2.

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**CORAM : SHIVKUMAR DIGE, J.**

**DATE : 17<sup>th</sup> JUNE, 2025.**

**ORAL JUDGMENT :**

1. By this Appeal, the Appellant is seeking enhancement of compensation.

2. It is contention of the learned counsel for the Appellant that due to accidental injuries, the Appellant has suffered 10% physical disability. He was doing centering work, due to accidental injuries he is unable to stand, and he cannot perform his work. He was admitted in hospital for the couple of days, but Tribunal has awarded lumpsum compensation of Rs.78,000/- out of which Rs.43,000/- is of medical expenses. The compensation awarded by the Tribunal is on lower side. Hence, requested to allow the Appeal.

3. It is contention of learned counsel for the Respondent – Insurance Company that, the Appellant has suffered fracture to his both legs. He was admitted in the hospital, and he was treated, his fracture is united and no physical deformity or permanent disability is caused to the Appellant. 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 the Judgment and order passed by Motor Accidents Claim Tribunal, Kolhapur (for short, "the Tribunal").

5. Considering evidence on record, the Tribunal has awarded total compensation of Rs.78,400/-. In my view, it is on lower side. To prove the disability, the Appellant has examined Dr. Doshi who had treated the Appellant. He has stated that both legs of the Appellant had suffered fracture, the injuries were 1) Grade two compound communicated fracture left tibia fibula 2) fracture tibia fibula right lower limb. He has further stated that, he operated on both the legs. After discharge, again the Appellant was admitted in the hospital, he was again operated on right leg. He was admitted in the hospital for the couple of days. He has issued injury certificate of 10%. He has stated that the Appellant had expended Rs. 43,400/- for medical expenses.

6. In my view, the Appellant was admitted in the hospital for couple of days, he has expended Rs.43,400/- for medical expenses. So, the amount awarded by the Tribunal of Rs. 78,400/- is on lower side. The Appellant was doing centring work, due to accidental injuries, his movements are restricted, he is unable to stand for long

time. The Tribunal has not awarded amount for pain and suffering, loss of income, loss of enjoyment of life, conveyance and other heads.

7. Considering the nature of injuries, period of admission in the hospital, and under above all heads, I am awarding Rs.1,25,000/- as lumpsum compensation.

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

### **ORDER**

- (i) The Appeal is allowed.
- (ii) The Appellant Claimant is entitled for enhanced compensation of Rs. 1,25,000/- alongwith 7.5% interest from the date of filing of claim Petition till realization of the amount.
- (iii) The Respondent – Insurance Company shall deposit the enhanced amount alongwith accrued interest within six weeks after receipt of this order.
- (iv) The Appellant shall pay deficit court fees on the enhanced amount, as per rule, if any.
- (v) The Appellant is permitted to withdraw the deposited amount alongwith accrued interest thereon.
- (vi) Record and Proceedings be sent back to the Tribunal.

**(SHIVKUMAR DIGE, J.)**