IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 1841 OF 2008

Sanjay Shivaji Fakade]
Age- 29 years, Occu: Nil,]
Resident of Kuchi,]
Tal: Kavathe Mahankal,]
Dist – Sangli.]
.... **Appellant Original Claimant**

Versus

1. Madhukar Shivaji Hasabe,]
Age: 34 years, Occ: Driver,]
Resident of Sanjaynagar,]
Near Kheradkar Sangli, Tal: Miraj]
(Driver of Tata Tempo Truck No. MH-10-A-6927)]
2. Vithal Shivaji Hasbe]
(Deleted vide Ex.39)]
3. United India Insurance Company Ltd.,]
Branch Sangli (Truck Tata Tempo MH-10/A-6927).]
4. Madhukar Vithal Yenupure,]
Age: 34 years, Occ: Driver,]
Resident of Maharashtranager,]
Rayareshwar Chawl, Mankhur,]
New Mumbai.]
5. M/s. Amar Tea Distributors Society]
Tea Company, for concerned person,]
Gopalnagar, building No.3,]
Shop No.20, Mumbai – Agra Road,]
Bhivandi, Dist. Thane.]

6.	Rajubhai Makasaheb Shaikh, Age- 51 years, Occ: Driver, Resident of Sarade, Tal. Phaltan, Dist: Satara. (Temp No. MH-10/A-2153 driver)	]]]]	
7.	Rajendra Krishna Jadhav, Age: Major, Occ: - Transport, Resident of Sarade, Tal. - Phaltan, Dist: Satara.	]]]]	
8.	The New India Assurance Company Limited Banch Sangale Sadan, Near Kamani Houd, Br. No. 151701, Satara (for truck No. MH-10/A-2153).	]]]]	
9.	The Oriental Insurance Co. Ltd., Satara.	] ….	**Respondents** **Original** **Opponents**

Mr. Tejpal Ingale a/w Ms. Vrunali Vilankar, Advocate for the Appellant.
Ms. Urmila K. Sanil,,Advocate for Respondent No.3.
Mr. Ketan V. Joshi a/w Mr. Karan Singh Bhadoria, Advocate for Respondent No.8.

CORAM : SHIVKUMAR DIGE, J.

DATE : 11th JULY, 2025.

P.C. :

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

2. It is contention of learned counsel for the Appellant that due to accidental injuries, the appellant has lost his left leg below the

ankle. Learned counsel further submitted that the Claimant was working as driver and was getting a salary of Rs.3,000/- per month and Rs.100/- as bhatta. But, the Tribunal has not considered this fact and has considered monthly income of the claimant at Rs.2,000/- per month, which is on lower side. No future prospects are given nor proper multiplier has been applied. Though, the claimant has suffered 91% permanent physical disability, the Tribunal has awarded compensation under other head on lower side. Hence, requested to allow the appeal.

3. It is contention of learned counsel for Respondent No.3 – Insurance Company that the income of the claimant is not proved before the Tribunal. His left leg has been amputated below the ankle. The Tribunal has considered all the aspect while passing judgment and order. The claimant was travelling in the said truck as a gratuitous passenger as a second driver, for which no extra premium was paid to insurance company. The Tribunal has passed well reasoned order, no interference is required in it, and requested to dismiss the appeal.

4. The counsel for Respondent No.8 supported the argument of learned counsel for the Respondent No.3. Learned counsel further

submitted that the Tribunal has passed well reasoned order, no interference is required in it, and requested to dismiss the appeal.

5. I have heard all learned counsel. Perused the judgment and order passed by the Motor Accident Claims Tribunal, Sangli (for short "the Tribunal").

6. The accident is not disputed by the Opponent – Insurance Company and disability of the Claimant has not been challenged. Admittedly, due to accidental injuries, the Claimant's left leg below the ankle has been amputated. To prove the income of the Claimant, the Claimant has examined himself. He has stated that he was working as a driver onheavy goods vehicle and he was getting Rs.3,000/- per month as salary with bhatta of Rs.100/- per day. He has also stated that he was getting income from agricultural land.

7. In support of his case, the Claimant has examined PW-2 Madhukar Hasbe, he has stated that the Claimant was working with him as a driver on his truck. He was paying him Rs.3,000/- per month as a salary and Rs.50/- bhatta. The salary certificate is at Exhibit – 84. In cross-examination, he has admitted that he has not maintained record in respect of the payment made to the claimant in respect of salary. While dealing with the issue of income, the

Tribunal has observed that there is contradiction about the income from agriculture to the extent of Rs.2,00,000/- per year, about which it can be said that if the Claimant was owing grape garden, he could not have required to go on work as driver. Though, the Tribunal has given Rs.60,000/- towards future loss of income, but the Tribunal has not considered monthly income of the Claimant. I am unable to understand the observation of the Tribunal, as driving licence of the Claimant is produced on record, it is at Exhibit- 85, it shows that the claimant was heavy vehicle driver. There is no reason to disbelieve the evidence of PW-2 owner of the Claimant, with whom the Claimant was working as driver. As Claimant was possessing heavy driving licence, he was skilled worker, hence, I am considering his monthly income at Rs.3,000/- per month. As Claimant left leg below ankle has been amputated and the claimant was serving as a driver hence, his functional disability is 100%. As he would not be able to drive again because of the amputation of the leg. The Tribunal has not awarded future prospects. As per view of the Hon'ble Apex Court in the case of ***National Insurance Co. Ltd. Vs. Pranay Sethi 2017 ACJ 2700 (SC)***, the Claimant is entitled for 50% future prospects. The Tribunal has not applied multiplier. At the time of accident, the claimant was 24 years old. Hence, proper multiplier is 18. The Tribunal has awarded 1,33,000/- for medical expenses, I am considering same. The Tribunal has not awarded amount for pain and suffering, I am considering it at Rs.1,00,000/-. The Tribunal has not awarded charges for attendant, I am considering it at Rs.25,000/-. The Tribunal has not awarded amount for artificial limb, I am considering it at Rs.1,00,000/-. The Tribunal has not awarded amount for conveyance, I am considering it at Rs.25,000/-. The Tribunal has not given amount for special diet, I am considering it at Rs.15,000/-. The Tribunal has given amount of Rs.20,000/- for loss of amenities in life, I am considering it at Rs.1,00,000/-.

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

Monthly income	Rs.3,000/-
Annual income	Rs.36,000/-
Add: 50% future prospects	Rs.18,000/-
Total income	Rs.54,000/-
Multiplier X 18 (Rs.54,000/- X 18)	Rs.9,72,000/-
Medical Expenses & Hospital charges already spent and awarded by the Tribunal	Rs.1,80,000/-
Pain and suffering	Rs.1,00,000/-
Attendant	Rs.25,000/-
Amputation of leg	Rs.1,00,000/-
Conveyance	Rs.25,000/-
Special diet	Rs.15,000/-

Loss of amenities of life	Rs.1,00,000/-
Total compensation	**Rs.15,17,000/-**
Less awarded by the Tribunal	Rs.3,00,000/-
Enhanced amount	**Rs.12,17,000/-**

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

ORDER

i. The appeal is allowed.

ii. The Claimant is entitled for enhanced compensation of **Rs.12,17,000/-** @ 7.5% interest per annum from the date of filing claim petition till, realization of the amount.

iii. The Respondent No.3 & 8 – Insurance Company shall deposit the enhanced amount along with accrued interest thereon, within six weeks after receipt of this order, as per ratio fixed by the Tribunal.

iv. The Claimant is permitted to withdraw deposited amount along with accrued interest thereon.

v. The Claimant shall pay the deficit Court fees on enhanced amount, if any, as per Rules.

vi. Record and Proceeding be sent back to the Tribunal.

10. In view of the aforesaid terms, appeal is disposed off.

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

(SHIVKUMAR DIGE, J.)