

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

FIRST APPEAL NO.505 OF 2013

Dayanand Pandurang Patil	}	
Age-32 years, Occ: Nil,	}	
R/o. Savarde Budruk, Taluka-Kagal,	}	
District-Kolhapur	}	...Appellant

Versus

1. Hitesh B. Patni	}	
R/O. S.No.114, Village-Rakholi,	}	
District-Dadara & Nagar Haveli of Silvassa	}	
(Owner of Tanker No.DN-09/C 9025)	}	
	}	
New Address : R/at 306, Glacier Complex,	}	(This amendment is
Jetalpur Road, Alkapuri, Baroda-39007,	}	carried out as per RJ-II
State-Gujrat.	}	order dated
	}	26/11/2013)
2. United India Insurance Co. Ltd.	}	
Rajeshri Shahu Sadan, Near Congress	}	
Bhavan, Station Road, Kolhapur, District-	}	
Kolhapur.	}	...Respondents
(Insurance Co. of Tanker No.DN-09/C	}	
9025)	}	

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Mr.Sudhakar G. Thorat, for the Appellant.
Mr.Amol Gatne, for Respondent No.2.

CORAM : SHIVKUMAR DIGE, J.

DATE : 15th JULY 2025

ORAL JUDGMENT :

. 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, both legs of the Appellant got fractured. He has suffered 25% permanent physical disability and was admitted in hospital for around 80 days. The Tribunal has not awarded future prospects and compensation awarded under other heads is on lower side. Hence, requested to allow the Appeal. He relied on *Rajkumar V/s. Ajay Kumar & Anr*¹.

3. It is contention of learned counsel for the Respondent-Insurance Company that, the fracture suffered by the Appellant is united, so there was no actual injury to the Appellant. The learned counsel further submitted that, as there was no actual loss to the income of the Appellant. He is not entitled for future prospects. The Tribunal has passed well reasoned order, no interference is required in it and requested to

¹ (2011) 1 Supreme Court Cases 343

dismiss the Appeal.

4. I have heard both learned counsel. Perused judgment and order passed by the Motor Accident Claims Tribunal ('The Tribunal' for short), Kolhapur.

5. It is Claimant's case that, due to accidental injuries his both legs got fractured. The doctor has given disability of 25%. The disability of the Claimant has not been challenged by the Insurance Company. It has come in the evidence of PW-3 Dr.Suresh Kurade that due to accidental injuries, the Claimant could not walk and sit properly. The Claimant was a Judo Karate coach. Due to accidental injuries, his day to day life activities are affected. At the time of accident, he was 27 years old, hence he is entitled for 40% future prospects. Though it is contention of the learned counsel for the Insurance Company that, future prospects cannot be given to the Appellant as his injuries were united and there is no loss to the income of the Claimant.

6. In my view, it has come in the evidence of the doctor that, there is problem to the Claimant as he could not walk and sit properly. The Claimant was a Judo Karate coach, and his income

is affected due to accidental injuries, hence, he is entitled for future prospects. The Tribunal has awarded compensation amount on lower side under other heads. Considering these fact's, he is entitled for following compensation.

Particulars	Amount
Monthly Income due to disability	Rs.3,000.00
(+) Future Prospects (40%)	Rs.1,200.00
Rs.4,200 x 12 x 18 x 25%	Rs.2,26,800.00
Medical Expenses	Rs.1,11,259.00
Pain and Suffering	Rs.10,000.00
Attendance Charges	Rs.10,000.00
Loss of Carrier and Amenities	Rs.25,000.00
Conveyance Charges	Rs.10,000.00
Special Diet	Rs.5,000.00
Loss of earning during Hospital	Rs.12,000.00

Total	Rs.4,10,049.00
(-)Tribunal Awarded	Rs.2,95,000.00
Total Just Compensation Payable	Rs.1,15,059.00

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

ORDER

(i) The Appeal is allowed.

(ii) The Claimant is entitled for enhanced

compensation of Rs.1,15,059/- @7.5% interest from filing of the Claim Petition till realization of the amount.

(iii) The Respondent-Insurance Company shall deposit the enhanced amount along with interest thereon within six weeks after receipt of this order.

(iv) The Claimant shall pay deficit Court Fees on enhanced amount, as per Rules.

(v) The Claimants shall pay deficit Court Fees on enhanced amount, as per Rules.

(vi) All pending Civil and Interim Applications are disposed of.

(SHIVKUMAR DIGE, J.)