

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

FIRST APPEAL NO. 2454 OF 2007

Dipak Baburao Desai,
Age – 34 years, Occ: Service,
Resident of Yamuna Niwas,
Old Kupwad road, Sangli.

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.... Appellant

Versus

1. Pramod Babusing Rajput,
Age: 27 years, Occ: Owner/Driver
Now Nil, resident of Budhgaon,
Tal. - Miraj, Dist: Sangli.
2. The Oriental Insurance Co. Ltd.
Sangli [Cover Note No.A-149969,
Valid from 28/8/2001 to 27/8/2002]
Krishna Complex, Amarai Road, Sangli.

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.... Respondents
Original
Opponents.

Mr. Tejpal Ingale a/w Ms. Vrunali Vilankar, Advocate for the Appellant.

Ms. Deepika Prabhala, Advocate for the Respondents.

CORAM : SHIVKUMAR DIGE, J.

DATE : 18th JULY, 2025.

JUDGMENT. :

1. This appeal is preferred by the Appellant – Claimant for

enhancement of compensation.

2. It is contention of learned counsel for the Appellant – Claimant that due to accidental injuries, the Claimant has suffered 70% permanent physical disability. After the accident, he has lost his job and is unable to go from one place to another place. He was working as a supervisor at construction site and was earning Rs.3,000/- as monthly salary and Rs.100/- per day allowance. But, the Tribunal has awarded lumpsum compensation of Rs.2,50,000/-, it is on lower side. The Tribunal has not considered mental and physical condition of the Appellant. Hence, requested to allow the appeal.

3. It is contention of learned counsel for the Respondent – Insurance Company that no evidence is produced on record to prove the income of the deceased. 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 Accident Claims Tribunal, Sangli (for short, “the Tribunal”).

5. Admittedly, due to accidental injuries, the Claimant has

suffered 70% permanent physical disability. Dr. Sudhir Shah has been examined to prove the disability. The disability of the Claimant has not been challenged by the Insurance Company. Hence, I am considering that the Claimant has suffered 70% permanent physical disability.

6. To prove the income, the Claimant has examined himself. He has stated that he was working as a supervisor with Maruti Kulkarni, Engineers & Contractor, and he was getting salary of Rs.3000/- per month and Rs.100/- as a bhatta per day for outside sites like, Jaysingpur, Miraj, Kavalapur, Ichalkaranji, etc. His education qualification is F.Y. B.com.

7. In cross-examination, he has stated that he has not produced the documents on record about his employment and salary, except salary certificate. The Claimant has examined PW2 - Maruti Kulkarni employer of the Claimant. He has stated that Claimant was working with him and he was paying him Rs.2,800/- to Rs.3,000/- per month as salary and he was also giving him bhatta of Rs.100/- per day. He further stated that, at the time of accident, he was getting salary of Rs.4000/- per month and Rs.150/- bhatta per day. The salary certificate is at Exhibit – 42. In cross-examination, he has

stated that he has not made entry in respect of salary paid to the Claimant in his account book. There is no documentary proof for issuance of salary certificate at Exhibit – 42.

8. While awarding compensation, the Tribunal has not considered monthly income of the Claimant. I am unable to understand the observations of the Tribunal. Admittedly, due to accidental injuries, 11 operations were performed on the claimant. Out of which, 6 operations were major. The Tribunal should have considered this fact. There is no reason to disbelieve the evidence of PW-2, who is a employer of the Claimant. Considering evidence on record, I am considering monthly income of the Claimant at Rs.3000/- and Rs.100/- as bhatta per day. The Claimant is entitled for 40% future prospects. The proper multiplier is 16. Due to accidental injuries, the Claimant is confined to one place, he has to take treatment frequently. The Tribunal has not given future medical expenses, I am considering it at Rs.25,000/-, and I am considering Rs.50,000/- for pain and suffering. The Claimant was admitted in the hospital for 57 days, I am considering Rs.25,000/- for attendance charges. I am considering Rs.15,000/- for conveyance. I am considering Rs.15,000/- for special diet, and Rs.25,000/- for loss of

amenities for life.

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

Monthly Salary	Rs.3,000/-
Allowance as a Bhatta	Rs.800/-
Total monthly income	Rs.3,800/-
Annual Income 12 (Rs.3,800/- X 12)	Rs.45,600/-
Add: 40% future prospects	Rs.18,240/-
Total income	Rs.63,840/-
Multiplier 16 (Rs.63,840/- X 16)	Rs.10,21,440/-
Medical Expenses & Hospital Charges already spent and awarded	Rs.1,00,000/-
Future Medical Expenses	Rs.25,000/-
Pain and Suffering	Rs.50,000/-
Attendant	Rs.25,000/-
Conveyance	Rs.15,000/-
Special Diet	Rs.15,000/-
Loss of amenities for life	Rs.25,000/-
Total compensation	Rs.12,76,440/-
70% disability hence, total compensation	Rs.8,93,508/-
Less awarded by the Tribunal	Rs.2,50,000/-
Enhanced amount	Rs.6,43,508/-

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

ORDER

- i. The Appeal is allowed.
- ii. The Claimant is entitled for enhanced amount of Rs.6,43,508/- @ 7.5% interest per annum from the date of filing claim petition, till realization of the

amount.

- iii. The Respondent – Insurance Company shall deposit the enhanced amount along with accrued interest, within six weeks after receipt of the order.
 - iv. The Claimant is permitted to withdraw the enhanced 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 Proceedings be sent back to the Tribunal.
11. All pending applications, if any, also stand disposed of.

(SHIVKUMAR DIGE, J.)