

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

FIRST APPEAL NO. 1571 OF 2025

1. Lahu Nagnath Ghandure]
Age- 50 years, Occ: At Present Nil]
R/o- Tirhe, Tal- North Solapur,]
Dist: Solapur.]
.... Appellant

Versus

1. Kalappa Ramchandra Rachatte]
Age – 52 Years, Occu- Business]
R/O- Shri Nagar, ,Manhari Road]
Behind Survase Kirana Stores Coil Nagar, Latur.]
2. The Oriental Insurance Co. Ltd.]
Summons be served on its Office at]
West Mangalwar Peth, Solapur]
.... Respondents
(Original
Respondents)

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Mr. R. S. Alange a/w Mr. V. S. Kupawade, Advocate for the Appellant.
Adv. N. D. Joshi, Advocate for Respondent No.2 – Insurance
Company.

CORAM : SHIVKUMAR DIGE, J.

DATE : 15th OCTOBER, 2025.

ORAL JUDGMENT. :

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

enhancement of compensation.

2. It is contention of learned counsel for the Appellant that due to accidental injuries, the Claimant has suffered 50% permanent disability. The Claimant was working as a security guard and after the accident, he could not resume the job because of permanent physical disability, his functional disability is 100%, but this fact is not considered by the Tribunal. The Tribunal has considered monthly income of the deceased on lower side at Rs.5,100/-. Learned counsel further submitted that the Tribunal has awarded compensation under the other heads on lower side, and future prospects is not awarded.

Learned counsel further submitted that the Tribunal has exonerated the insurance company, though, the offending vehicle was insured at the time of accident, and requested to allow the appeal.

3. It is contention of learned counsel for Respondent No.2 – Insurance Company that no evidence is produced on record to prove the income of the deceased. It has not been proved before the Tribunal that the Claimant has suffered 100% permanent functional disability. 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 impugned

judgment and order passed by the Motor Accident Claims Tribunal, Solapur (for short, “the Tribunal”).

5. The Tribunal has considered monthly income of the Claimant at Rs.10,201/- considering 50% disability of the Claimant. The Tribunal has awarded compensation at Rs.8,60,600/- as per 50% permanent physical disability. To prove the disability, the Claimant has examined Dr. Pradeep Y. Kothadiya at Exhibit-40. He has stated that he had examined the Claimant and in clinical examination and x-ray, he found 50% disability of the Claimant. Accordingly disability certificate was issued, it is at Exhibit-41. He has further stated that the injury of hemiparesis resulted into difficulty in walking, squatting, and sitting cross-legged and is unable to carry out his routine activities. The Respondents have not challenged 50% permanent physical disability. It has come in the evidence of the Claimant that he was working as security guard and after the accident he has lost his job due to disability. It shows that though the Claimant has suffered 50% permanent physical disability, but his functional disability is 100%. Considering these facts, I am considering functional disability to the Claimant at 100%. The Tribunal has awarded 50% compensation of Rs.8,60,600/-, I am considering compensation on the

basis of 100% functional disability. The Tribunal has exonerated the insurance company from paying the compensation on the ground that no documents are produced on record to show that the offending vehicle was insured with the insurance company.

I am unable to understand the observations of the Tribunal as insurance company has admitted that at the time of accident, the offending vehicle was insured with their company, but the Tribunal has not considered this fact.

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

Monthly income	Rs.10,201
Annual income	Rs.1,22,412/-
Add: 25% future prospects	Rs.30,603/-
Total income	Rs.1,53,015/-
Multiplier (Rs.1,53,015 X 13)	Rs.19,89,195/-
Medical	Rs.40,000/-
Special Diet	Rs.5,000/-
Pain and Suffering	Rs.10,000/-
Medical attendant	Rs.10,000/-
Total compensation	Rs.20,54,195/-

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

ORDER

i. The appeal is allowed.

- ii. The Claimant is entitled for compensation of **Rs.20,54,195/- @ 7.5% per annum** from the date of filing of claim petition till realization of the amount including the compensation awarded by the Tribunal.
 - iii. The Respondent Nos.1 and 2 jointly and severally shall deposit the enhanced compensation along with accrued interest from the date of filing claim petition till realization of the amount, if compensation awarded by the Tribunal is not deposited.
 - iv. The Appellant/Claimant is permitted to withdraw the deposited amount along with accrued interest thereon.
 - v. The Claimant shall pay the deficit Court fees on enhanced amount, if any, as per Rule.
 - vi Record and Proceedings be sent back to the Tribunal.
8. All pending applications, if any, also stand disposed off.

(SHIVKUMAR DIGE, J.)