

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

FIRST APPEAL NO.3279 OF 2006

Ramjan Imam Shaikh

Age : 25 years, Occupation: Business,

R/o. Gosavi Lane Miraj,

District – Sangli.

... Appellant

Versus

1. M/s. Shree Carrier P. Ltd.,
Ap-B-395, Shastri Nagar, Bilward,
State-Rajasthan, Pin Code: 311 001.

2. United India Insurance Co. Ltd.,
A/P - Station Road, Bhilward, Rajasthan
(Summons be served through United India
Insurance Co. Ltd., Kolhapur Branch Office,
Station Road, Near Congress Bhavan,
Kolhapur, District-Kolhapur.)

... Respondents

Mr. Sudhakar G. Thorat, for the Appellant.

Ms.Poonam Mittal, for the Respondent No.2.

CORAM : SHIVKUMAR DIGE, J.

DATE : 27th JUNE, 2025

JUDGMENT :-

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, both legs of the appellant have been amputated. The appellant was doing cattle business and he was getting Rs.4,000/- income per month, but the Tribunal has not considered this fact and has awarded the compensation of

Rs.2,70,000/-, which is on lower side. Learned Counsel further submitted that the Tribunal has not awarded compensation for artificial limb, pain and sufferings, conveyance charges, special diet, attendance charges. Future prospects are not given and multiplier has not applied. Hence, requested to allow the Appeal.

3. It is contention of learned Counsel for the respondent No.2- Insurance Company that accident occurred due to negligence of the appellant-claimant as he was not holding effective driving licence at the time of accident. Learned Counsel further submitted that the Tribunal has considered evidence produced on record and on that basis the judgment is passed. No interference is required in it and requested to dismiss the Appeal.

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

5. Admittedly, due to accidental injuries both legs of the appellant have been amputated. While dealing with the issue of income, the Tribunal has considered monthly income of the appellant-claimant at Rs.2,000/- per month. To prove the income, the appellant-claimant has examined himself and his employer-PW 2- Yasin Shiakh. He has stated that he was doing the business

of cattle and the claimant was working with him and he used to pay salary of Rs.4000/- per month to him. The appellant was maintaining the family of four persons. The person, who maintained the family of four persons, there is no reason to disbelieve the evidence of employer. I am considering monthly income of the appellant-claimant at Rs.4,000/-. The Tribunal has not awarded future prospects. As per the view of Hon'ble Apex Court in the case of *National Insurance Co. Ltd. V/s. Pranay Sethi*¹, the claimant is entitled for 40% future prospects. At the time of accident, the age of the deceased was 22 years, therefore, the multiplier of '18' applied by the Tribunal is proper. The Tribunal has awarded Rs.50,000/- for pain and sufferings. In my view, the appellant-claimant has lost his both legs. Hence, I am considering it at Rs.1,50,000/- for pain and sufferings. The Tribunal has not awarded attendance charges. The appellant-claimant was in the hospital for 77 days. Hence, I am considering it at Rs.30,000/- for attendance charges. The Tribunal has not awarded amount for loss of comfort and amenities, I am considering it at Rs.2,00,000/- . The Tribunal has not awarded conveyance charges, I am considering it at Rs.30,000/-. I am considering Rs.30,000/- for special diet and I am considering Rs.20,00,000/- for artificial limb

¹ 2017 ACJ 2700 (SC)

i.e. Rs.10,00,000/- for each leg. Though, it is contention of learned Counsel for the respondent No.2-Insurance Company that the accident occurred due to sole negligence of the appellant-claimant but the Insurance Company has not challenged the judgment and order passed by the Tribunal. Hence, I do not find merit in it.

6. Considering above calculations, the appellant-claimant is entitled for following compensation.

Sr. No.	Particulars	Amount
1	Loss of earning due to disability =Rs. 4,000 x 12 Future prospects = Rs.1,600 x12 (40%) Multiplier 18	Rs.48,000/- Rs. 19,200/- ----- Rs. 67,200/- x 18 ----- Rs.12,09,600/-
2	Pain and suffering	Rs.1,50,000/-
3	Attendance charges	Rs. 30,000/-
4	Loss of comfort and Amenities	Rs.2,00,000/-
5	Conveyance charges	Rs.30,000/-
6	Special diet	Rs.30,000/-
7	Artificial limb (Rs.10,00,000/- each leg)	Rs.20,00,000/-
	Total	Rs.36,49,600/-
8	Tribunal awarded	(-) Rs. 2,70,000/- ----- Rs.33,79,600/-
9	25% Negligence	(-) Rs.8,44,900/-
	Total Enhanced Amount	Rs. 25,34,700/-

7. The claimant is entitled for enhanced amount of Rs.25,34,700/-.

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

ORDER

- (i) The Appeal is allowed.
- (ii) The Appellant-Claimant is entitled for enhanced compensation of Rs.25,34,700/- @ 7.5% per annum from the date of filing Claim Petition till realization of the amount.
- (iii) The Respondent No.2- Insurance Company shall deposit the enhanced amount along with accrued interest thereon within eight weeks from the receipt of this order.
- (iv) The Appellant-Claimant is permitted to withdraw the deposited amount alongwith interest thereon.
- (v) The Appellant-Claimant shall pay deficit court fees on enhanced amount, if any, as per Rules.
- (vi) R & P be sent back.
- (vii) Pending applications, if any, stand disposed of.

[SHIVKUMAR DIGE, J.]