

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.326 OF 2017

Bajaj Allianz General Insurance Co. Ltd. }
City Pride, 2nd Floor, Office No.4 & 8, Near }
City Hospital, Old Employment Chowk, }
102, Railway Lines, Solapur-413001 } **...Appellant**

Versus

1. Shri.Manoj Dattatraya Gaikwad }
Age-35 years, Occ: Agricultural & Labour }
R/at Pathri, Taluka-Barshi, District-Solapur. }

2. Premraj Limbraj Muthal }
Age-Major, Occ: Business, }
R/at S.No.36/13, Flat No.4, Neha Complex, }
Near Perna School, Dhanakwadi, Pune } **...Respondents**

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Mr.D.S. Joshi, for the Appellant.
Ms.Seema S. Dighe i/b Mr.Priyal G. Sarda, for Respondent No.1.

CORAM : SHIVKUMAR DIGE, J.

DATE : 03rd JULY 2025

ORAL JUDGMENT :-

. The Appellant-Insurance Company has preferred this
Appeal against the judgment and order passed by the Motor
Accident Claims Tribunal ('MACT' for short), Solapur.

2. It is contention of the learned counsel for the Appellant-Insurance Company that, at the time of the accident, the driver of the offending vehicle was not holding effective and valid driving license and was not authorized to drive JCB, but this fact is not considered by the Tribunal. The learned counsel further submitted that, the Tribunal has awarded 50% future prospects, it should be 40%. The learned counsel further submitted that, the Tribunal has awarded 9% interest, it is on higher side. The learned counsel further submitted that, the Tribunal has awarded compensation on higher side under other heads. The learned counsel further submitted that, the Claimant was travelling on JCB when accident occurred, hence, Insurance Company is not liable to pay compensation and requested to allow the Appeal.

3. The learned counsel for the Respondent No.1 submits that, 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 judgment and order passed by the Tribunal.

5. To prove the defence that, at the time of the accident, driver of the offending JCB was not holding effective and valid driving license. The Appellants have examined RW-1 Dattatray Dodamani, employee of RTO Office at Exhibit-92. He has produced the copy of the driving license of the driver of the offending JCB at Exhibit-83. It shows that, the driver of the JCB was holding license to drive JCB. Considering the evidence of RW-1, I do not find merit in the contention that, at the time of the accident, driver of the offending JCB was not holding effective and valid driving license.

6. The Tribunal has awarded 50% future prospects on the compensation amount. Admittedly, due to accidental injuries, the Respondent-Claimant has suffered 83% permanent disability. He has suffered injuries to spinal cord resulting in loss of control over bowel and bladder and his left elbow has been amputated. The Tribunal has not awarded amount for prosthetic hand. Though the Claimant has suffered 83% disability, but his functional disability is 100%. After the accident, he is unable to do work, he was a farmer and due to injuries and amputation, he

is confined to one place. Hence, 10% more future prospects and amount awarded under other heads can be considered, as no proper compensation is awarded under other heads. The Tribunal has awarded only Rs.5,000/- for managerial expenses and no compensation is awarded for loss of amenities in life, attendant charges, special diet and loss of amenities. No evidence is produced on record to show that, the Claimant was travelling on JCB. It is Claimant's case that, he was standing on road at that time, JCB gave dash to him. Considering the nature of the injuries, disability suffered by the Claimant, the interest awarded by the Tribunal is proper.

7. In view of above, the Appeal is devoid of merit and I pass following order.

ORDER

- (i) The Appeal is dismissed.
- (ii) The Respondents-Original Claimant is permitted to withdraw the amount deposited by the Appellant along with accrued interest thereon, if not withdrawn.

(iii) The statutory amount alongwith interest be transferred to the Tribunal. Parties are at liberty to withdraw it, as per Rules.

(iv) Record and Proceedings be sent back to the Tribunal.

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

(SHIVKUMAR DIGE, J.)