

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO.222 OF 2024

Shri.Sandeep Dnyanoba Awate,]
 Age about 41 years, Occupation: Nil,]
 R/o. Dattawadi, Chakan, Tal. Khed, District:]
 Pune.]
 (Since deceased through his legal heirs and] **Amendment**
 legal representatives.)] **carry out as**
per Court's
order dated
29/01/2024.

1(A) Dnyanoba Vishnu Awate,]
 Age. 70 years, Occ: Agriculturist,]

1(B) Balubai Dnyanoba Awate,] **Original**
 Age. 67 years, Occ: Household,] **Claimants**
 Both Nos. 1 and 2 R/o. Shelgaon, Tal. Khed,]
 District : Pune.]....
Appellants

Versus

1. Shri.Ramkumar Rathi]
 Age- Adult , Occupation: Transport,]
 C/o: Omkar Carriers & Mover,]
 307, 308, 3rd floor, Satguru]
 Complex, Basheerbagh, Hyderabad,]
 Andhrapradesh.]

2. The New India Assurance Co. Ltd.]
 Office at: Sharda Centre, Opp. Nal,]
 Stop, Erandawana, Pune – 411 044.]

.... **Respondents**
Original
Opponents

Adv. Urmisha Vargante i/b Adv. Ravindra S. Pachundkar a/w Ms. Sakshi Patil and Adv. Someshingh Thakur, Advocate for the Appellant.
Ms. Jyoti Bajpayee, Advocate for Respondent No.2.

CORAM : SHIVKUMAR DIGE, J.

DATE : 2nd JULY, 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, the Appellant has become paraplegic. He is bedridden and is unable to move from one place to another place. Learned counsel further submitted that, earlier the Appellant had started his own business and prior to that, he was working in Tata Engineering and Locomotive Company Limited as a driver. He was earning Rs.7,000/- per month. Thereafter, he left the job and purchased pickup vehicle and started his own business i.e. transporting vegetables. He was earning around Rs.15,000/- per month from the said business. But, the Tribunal has not considered this income and has considered his monthly income at Rs.6,000/- per month, which is on lower side. The Tribunal has awarded lower compensation under the other heads. Hence, requested to allow the appeal.

3. It is contention of learned counsel for the Respondent No.2 - Insurance Company that, no evidence is produced on record to prove the income of the Claimant. The Tribunal has considered all the aspects, and on that basis, the Tribunal has passed well reasoned order, and 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 the Motor Accident Claims Tribunal, Pune (for short, “the Tribunal”).

5. To prove the income of the Claimant, the Claimant has examined himself. He has stated that, earlier he was working in Tata Engineering and Locomotive Company Limited, and was earning around Rs.7,000/- per month salary. Thereafter, he left the job and he purchased a pickup vehicle to start his own business for transporting vegetables and fruits. From the said business, he was earning around Rs.15,000/- per month. Nothing elicited in the cross examination of this witness. Considering evidence on record, the Tribunal has considered notional monthly income of the Claimant at Rs.6,000/- per month. In my view, it is on lower side. Earlier, the Claimant was doing job, and he was earning Rs.7,000/- per month, but he was not content in income

of salary, hence, he had started own business of selling vegetables and fruits by purchasing a pickup vehicle and was earning around Rs.15,000/- per month. There is no reason to disbelieve his evidence, hence, I am considering his monthly income at Rs.9,000/- per month. The Tribunal has not awarded future prospects. As per view of the Hon'ble Apex Court in the case of ***National Insurance Co. Ltd. Vs. Pranay Sethi 2017 ACJ 2700 (SC)***, the Claimant is entitled for 40% future prospects.

7. It is contention of learned counsel for the Respondent No.2 – Insurance Company that, Tribunal has applied multiplier of 17, it should be 16. At the time of accident, the claimant was 31 years old, hence, I am considering multiplier of 16. Due to accidental injuries, the claimant is 100% disabled and his disability is not challenged by the Respondent No.2 – Insurance Company. The Tribunal has awarded Rs.43,000/- for medical bills. The Tribunal has awarded only Rs.5000/- future medical bill. In my view, it is on lower side. Hence, I am considering Rs.50,000/- future medical bills. The Tribunal has awarded Rs.1,00,000/- for pain and suffering, I am considering at Rs.2,00,000/-. The Tribunal has awarded Rs.50,000/- for attendant charges, I am considering it at Rs.50,000/- as he was bedridden. The Tribunal has not

awarded conveyance, I am considering at Rs.50,000/-. The Tribunal has not awarded compensation for loss of amenities in life, I am considering it at Rs.1,00,000/-.

8. Considering above calculations, the Claimants are entitled for following compensation.

Monthly income	Rs.9,000/-
Annual income	Rs.1,08,000/-
Multiplier 16	Rs.17,28,000/-
Add: 40% future prospects	Rs.6,91,200/-
Medical Bills	Rs.50,000/-
Future Medical Bills	Rs.50,000/-
Pain and Suffering	Rs.2,00,000/-
Special Diet	Rs.50,000/-
Attendant Charges	Rs.50,000/-
Loss of Amenities in life	Rs.1,00,000/-
Conveyance	Rs.50,000/-
Total compensation	Rs.29,69,200/-
Less awarded by the Tribunal	Rs.15,17,000/-
Enhanced amount	Rs.14,52,200/-

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

ORDER

- i. The appeal is allowed.
- ii. The Appellants/Claimants are entitled for enhanced amount of **Rs.14,52,200/- @ 7.5% interest 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 four weeks after receipt of this order.
 - iv. The Appellants/Claimants are permitted to withdraw the deposited amount along with accrued interest thereon.
 - v. The Appellants/Claimants shall pay deficit Court fees on enhanced amount, if any, as per Rules.
 - vi. Record and Proceedings be sent back to the Tribunal.
 - . The appeal is allowed in the aforesaid terms and stands disposed of.
10. All pending applications, if any, also stand disposed of.

(SHIVKUMAR DIGE, J.)