IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 553 OF 2024

	Reliance General Insurance Co. Ltd.	)	
	Heritage House, Tadiwala Road,	)	
	Pune- 411 001	)	Appellant

Versus

1	Annasaheb Ganpat Gaikwad	)	
	Age 43 Years, Occupation : Driver	)	
	R/at : Survey No.1, Near Laxmi Mandir,	)	
	Jai Prakash Nagar, Mundhawa, Pune	)	
2	Mr. Mohd Zamrud Miyan S/o. Mohd.	)	
	Moinuddin	)	
	Age : Adult, Occupation : Transport	)	
	R/at : H. No. 21, Near Goul Choudi,	)	
	Basavkalyan, Dist : Bidar – 485327	)…	Respondents

With
CROSS OBJECTION STAMP NO. 1254 OF 2025
IN
FIRST APPEAL NO.553 OF 2024

	Annasaheb Ganpat Gaikwad	)	
	Age 43 Years, Occupation : Driver	)	
	R/at : Survey No.1, Near Laxmi Mandir,	)	Cross Objector
	Jai Prakash Nagar, Mundhawa, Pune		

Versus

	Reliance General Insurance Co. Ltd.	)	
	Heritage House, Tadiwala Road,	)	
	Pune- 411 001	)	Appellant

Versus

1	Annasaheb Ganpat Gaikwad	)	
	Age 43 Years, Occupation : Driver	)	
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	Age : Adult, Occupation : Transport	)	
	R/at : H. No. 21, Near Goul Choudi,	)	
	Basavkalyan, Dist : Bidar – 485327	)…	Respondents

Ms. Shalini Shankar, Advocate for Appellant.
Mr. Amol Gatne, Advocate for Respondent No.1.

CORAM : SHIVKUMAR DIGE, J.

DATE : 1st AUGUST, 2025.

Judgment :

1. This appeal is preferred by the Appellant-Insurance against the judgment and order passed by the Motor Accident Claims Tribunal, Pune, (for short “the Tribunal”). Respondent No.1-claimant has also preferred cross-objection for enhancement of compensation. Hence, I am deciding both the matters by this common judgment.

2. It is contention of learned counsel for the appellant-Insurance Company that the claimant was serving as driver. No income proof is produced on record but the Tribunal has considered monthly income of the claimant at Rs.12,000/- per month, which is on higher side. Learned counsel further submitted that the driver of the offending vehicle was not holding valid and effective driving license. The Tribunal has awarded medical expenses on higher side. Hence, requested to allow the appeal of the Insurance Company and dismiss the cross objection of the claimant.

3. It is contention of learned counsel for respondent No.1-claimant that the claimant was driver and he was working in Taravade Logistics and was getting Rs.15,000/-per month as salary but the Tribunal has considered Rs.12,000/- as his monthly salary, which is on lower side.

Learned counsel further submitted that the claimant has suffered 50% permanent physical disability but functional disability is 100% as the claimant is unable to drive the vehicle after the accident but the Tribunal has not considered this fact. The Tribunal has awarded compensation under other heads on lower side and no future prospects is given and multiplier is not applied. Hence, requested to allow the appeal filed by the claimant and dismiss the appeal filed by Insurance Company.

4. I have heard both learned counsel, perused the judgment and order passed by the Tribunal.

5. Admittedly, due to accidental injuries, the claimant has suffered 50% permanent physical disability. The disability of the claimant has not been challenged by the Insurance Company. To prove the disability, the claimant has examined Dr. Madan Hardikar. He has stated that on 7th July 2022, he assessed the claimant clinically and issued permanent disability certificate (Exhibit-47) to the extent of 50%. He has further stated that due to disability, the claimant is unable to drive any vehicle. In cross-examination, he stated that he did not treat the claimant and he was not attached to either Sahyadri Hospital or Vishwaraj Hospital, where the claimant received treatment.

6. While dealing with the issue of disability, the Tribunal has considered 50% physical permanent disability. I am unable to understand the observations of the Tribunal as the claimant was driver and it has come on record that he has suffered multiple fracture injuries and spine

injuries. PW-2 has stated that due to disability, he is unable to drive any vehicle. Considering this fact, the Tribunal should have considered 100% functional disability of the claimant but it has not been considered. Hence, I am considering 100% functional disability.

7. It is claimant's case that the claimant was working as a driver with Taravade Logistics and was earning on average Rs.15000/- per month as salary. To prove the income of the claimant, the claimant has examined himself. He has stated that he was driver and he was working with Tarvade Logistics and was earning Rs.15000/- to 17,000/- per month on piece work basis. He has produced the bank statement in which his salary was credited. He has further stated that he is totally unfit for driving or do any other work and his loss of earning capacity is 100%. Nothing elicited in cross examination of this witness. While dealing with the issue of income of the claimant, the Tribunal has observed that no witness was examined to prove the income of the claimant, nor salary slip is produced on record. The bank statement was produced on record shows the deposit of salary; however, the claimant was engaged on a piece work basis (trip basis). On that basis, the Tribunal has considered monthly income of the claimant at Rs. 12,000/- per month. I am unable to understand the observations of the Tribunal, as the bank statement produced on record clearly shows that the claimant was receiving more than Rs. 12,000/- per month under the head of 'Salary,' with the last recorded salary exceeding Rs. 15,000/-. The Tribunal has observed that

the salary was fluctuating every month. This shows that, because of piece work, the claimant was receiving a different salary each month. Considering that the claimant is a driver, a skilled worker, and he lost his job after the accident, I am considering the average monthly salary of the claimant at Rs. 14,000, based on the bank statement. The Tribunal has not awarded any amount towards future prospects, to which the claimant is entitled. The claimant is entitled for 25% towards future prospects.

8. Considering the above calculations, the claimant is entitled for following compensation:

Particulars	Rs.	Amount
Annual Income of the deceased (Rs.14,000/- pm x 12 x 14 (multiplier))	Rs.	**23,52,000.00**
25% towards future prospects	Rs.	**5,88,000.00**
Loss of Income for one year (Rs.14,000/- x 12 years)	Rs.	**1,44,000.00**
Pain and Suffering	Rs.	**50,000.00**
Special Diet and Conveyance	Rs.	**30,000.00**
Future Medical Expenses	Rs.	**1,00,000.00**
Medical Bills	Rs.	**7,06,595.00**
Total Compensation.	Rs.	**39,70,595.00**

The Tribunal has awarded Rs.21,38,595/-, if this amount is deducted from the amount of Rs.39,70,595/- considered by this Court, it comes to Rs.18,32,000/-. The claimant is entitled for this amount.

6. In view of above, I pass the following order :

O R D E R

1. First Appeal No.553 of 2024 is dismissed. No order as to cost.

2. Cross Objection (St.) No.1254 of 2025 is allowed.

3. The claimant is entitled for enhanced compensation of Rs.18,32,000/- @ 7.5% interest per annum from the date of filing claim petition till realisation of the amount.

4. The Insurance Company shall deposit the enhanced amount along with accrued interest thereon within eight weeks from the receipt of this order.

5. The claimant is permitted to withdraw the deposited amount along with accrued interest thereon.

6. The claimant shall pay deficit court fees, if any, on enhanced amount as per Rule.

7. The statutory amount in First Appeal No.553 of 2024 be transmitted to the Tribunal along with accrued interest thereon. The parties are at liberty to withdraw it as per Rule.

7. Pending applications, if any, stand disposed of.

(SHIVKUMAR DIGE, J.)