



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

FIRST APPEAL NO.432 OF 2021

Maharashtra State Road Transport
Cooperation, through its Divisional
Controller , Buldhana, Division office,
Buldhana, Tq. & Dist. Buldhana.

...APPELLANT
(Ori. Respondent on RA)

...V E R S U S...

Shiwaji @ Raju s/o Shankar Wagh,
Aged 38 years, Occ: Nil,
R/o Now Stadium Road, Tq&Dist. Buldhana.

...RESPONDENT
(Ori. Plaintiff on RA)

Shri V.P. Panpalia, Advocate for appellant.
Shri Sharad Pawar, Advocate for respondent.

CORAM:- M.W. CHANDWANI, J.
DATED :- 11.09.2025

ORAL JUDGMENT:

1. The appeal challenges the impugned judgment and award dated 28.03.2019 passed by the Motor Accident Claims Tribunal, Buldhana (for short “the Tribunal”) in M.A.C.P. No.226/2014 whereby, the respondent has been granted compensation of ₹14,16,050/- on account of disability caused in a vehicular accident that occurred on 13.11.2014.

2. The appeal is challenged mainly on the ground that the doctor who has issued the certificate of permanent disability to the extent of 42 per cent has not treated the respondent, and he issued certificate at the request of the respondent after

examining him. The record of the Tribunal however, shows that witness no.3-Dr. Vijay Nemade who has treated the respondent was examined by the respondent/injured. He has opined that the left the foot of the respondent was crushed in the accident and the respondent who is a driver by profession is not fit to drive. Therefore, the Tribunal by relying on the decision of ***Raj Kumar Vs. Ajay Kumar and another***¹ has held that the respondent is entitled for 100 per cent loss of income. Considering his income as ₹6,000/- per month, applying the multiplier of 15, the Tribunal assessed loss of future income to the tune of ₹10,80,000/-. Thus, there is ample evidence in the form of deposition of the treating doctor. The record further shows that the respondent has been examined by the Medical Board constituted at Government Hospital, Khamgaon and they have also assessed the physical disability to the extent of 42 per cent. Therefore, there is sufficient material available on record in the form of deposition of the treating doctor as well as the Medical Board, Khamgaon which shows 42 per cent physical disability to the respondent. Therefore, there is no substance in the argument of the learned counsel for the appellant that the Tribunal erred in calculating the loss of future income to the tune of ₹10,80,000/-.

3. So far as the compensation to the loss of amenities is

¹ (2011) 1 SCC 343

concerned, the claimant witness no.2 – Dr. Vijay Wagh who issued certificate has deposed that the left foot of the respondent showed deformity, no motion at the ankle joint; and severe atrophy at calf muscle. However, the evidence of the treating doctor claimant witness no.3 – Dr. Nemade reveals permanent disability to the ankle only and though the movement of the foot is affected but, he can perform his daily routine. That apart, once the compensation towards loss of future income has been granted, then nominal compensation towards loss of amenities can be granted in wake of *Raj Kumar* (supra) relied upon by the learned counsel for the appellant.

4. In my view, loss of amenities granted by the Tribunal to the extent of ₹50,000/- is on the higher side. Considering the evidence of the treating doctor, ₹20,000/- towards loss of amenities would suffice the purpose.

5. The appeal is allowed to that extent. The award is modified to that extent.

6. In the above said terms, the appeal is disposed of.

7. Excess amount deposited by the appellant be refunded alongwith accrued interest thereon.