IN THE HIGH COURT OF JUDICATURE OF BOMBAY BENCH AT AURANGABAD

908 FIRST APPEAL NO. 3376 OF 2023

Vishal Hirachand Dasre
Age: major, Occu: Business,
R/o. H. No.3/37, First Floor,
Mhada Colony, Near Baba Petrol Pump,
Aurangabad ..**Appellant**

VERSUS

1. Shatrughan Jagdish Prasad Yadav,
C/o. Ghorkhnath Lahanu Gore,
R/o Burudgaon Road, Bhosale Loan,
Datta Nagar, Pukale Mala, Ahmednagar
Mob. No. 9028032290

2. Rakeshsingh LT Sandhu Sharan Singh,
C/o. Dr. Varsha Ghale
R/o. Flat No.102, Writ-Wing, Rose Land Residency,
Gate-4, Pimple, Saudagar, Pune 411 027
Mob. No.9822200414

3. The Universal Sompo General,
Insurance Company Ltd.,
R/o. Unit No.601 & 602, 6th Floor,
Reliable Tech Par, Cloud City Campurs, Gate No.31
Mauje Etham, Thane- Belapur Road, Airoli,
New Mumbai – 400 708 ..**Respondents**

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Mr. M. A. Manjramkar and Mr. D. A. Paikrao, Advocates for Appellant
Mr. Shantanu A. Deshpande, Advocate for Respondent No.3

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WITH
CIVIL APPLICATION NO. 475 OF 2026
IN FA/3376/2023 WITH
CIVIL APPLICATION NO. 929 OF 2026
IN FA/3376/2023 WITH
CIVIL APPLICATION NO. 1111 OF 2026

IN FA/3376/2023 WITH
CIVIL APPLICATION NO. 13150 OF 2024
IN FA/3376/2023 WITH
CIVIL APPLICATION NO. 57 OF 2026
IN FA/3376/2023

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CORAM : SANJAY A. DESHMUKH, J.

DATE : 29.01.2026

ORDER :-

1. This appeal is preferred against the judgment and award dated 08.12.2021 passed by the learned Motor Accident Claim Tribunal, Aurangabad in M.A.C.P. No.630 of 2018.

2. The claimant's-appellant's case is that on 28.05.2018 at about 05:30 p.m., while he was proceeding from Nashik to Shirdi by a Swift Dzire Car No. MH-17-AZ-3712 along with his friend Tukaram Gadekar and son Durgesh Tukaram Gadekar, the vehicular accident took place. Durgesh was driving the said car. When they reached near Sai Laxmi Hotel, near Pimparwadi Shivar on the Sinnar Shirdi Road, a container bearing Registration No. CG-04-JC-8134 came from the opposite side and tried to overtake a vehicle ahead of it. Due to high speed, the container entered into the wrong lane and gave a dash to the said car. The appellant and other occupants in the car sustained serious injuries. They were shifted to Sai Baba Super Specialty Hospital, Shirdi. However, the co-passenger friend of the

claimant Tukaram succumbed to the injuries. Thereafter, the claimant was shifted to Patwardhan Hospital Aurangabad. The appellant has sustained fracture to his united right tibia C implant in left and calculated left side etc., as shown in the discharge card. The appellant incurred huge medical expenses. The appellant claimed that he was running a transport business and earning Rs.4,50,000/- per annum. He suffered economic loss. Therefore, he prayed for compensation, as he sustained permanent disability. The appellant has claimed compensation of Rs.90,00,000/- under different heads.

3. The respondent-Insurance Company contested the claim and denied the material contentions raised in the petition. The respondent has denied the income as well as the permanent functional disability of the claimant.

4. Learned advocate for the appellant pointed out the pleadings, the evidence, and the additional evidence regarding the appellant's income produced pursuant to the directions of this Court. He submitted that the learned Tribunal concluded only 15% permanent disability without any justification, although the claimant had suffered more than 34% disability. He submitted that the claimant’s income was proved by income tax returns. He pointed out

paragraph No.31 of the impugned judgment and submitted that a meager amount of compensation was awarded without considering the evidence on record, while holding that only 15% permanent disability was caused to the claimant. He, therefore, prayed to allow the appeal by setting aside the impugned judgment and award.

5. Learned advocate for the respondent strongly opposed the appeal and pointed out paragraph No.31 of the impugned judgment. He submitted that the learned Tribunal had already considered 40% loss of future prospects and applied a multiplier of 14 by considering the appellant's income @ Rs.72,000/- per annum. He further submitted that even if permanent disability is considered as 15%, the compensation awarded by the learned Tribunal is just and proper and no interference is warranted in the impugned judgment. He also opposed the additional evidence produced by the appellant. He submitted that the appellant had filed another claim for compensation, being M.A.C.P. No.735 of 2019, decided on 30.09.2025, in which he had contended that the accident had taken place and that he had sustained head injuries due to the accident in question. The said claim was dismissed. He prayed to dismiss the appeal as there is no substance in the grounds of objections of it.

6. Perused the Record and Proceedings, particularly the pleadings, the evidence of the appellant and his witnesses along with the grounds of objections of the appeal and the reasons and the findings of the learned Tribunal. The occurrence of the accident is not disputed and the evidence of the appellant in that regard is proved. To prove the disability of the appellant, Dr. Vaibhav Narayanrao Golde (CW-2) deposed that he noticed 35.4% permanent disability sustained to the appellant and accordingly issued a disability certificate at Exhibit-14. In his cross-examination, he admitted that the bones of the appellant were found to be reunited as per the X-ray report. He further stated that he had not advised the appellant to approach the Medical Board at Aurangabad for obtaining a disability certificate. No doubt, he was not the treating doctor, however, he admitted that he had brought all the relevant papers of medical treatment of appellant with him. His evidence is not shaken in the cross-examination.

7. Thus, the evidence establishes that the appellant sustained 35% permanent disability. Though the learned Tribunal discussed the evidence of Dr. Vaibhav Golde (C.W.-2), it has not explained how it arrived at the conclusion that the claimant's functional permanent disability was only 15%. Therefore, for the purpose of calculating

compensation, the appellant's 35% permanent disability is proved. The learned Motor Accident Claims Tribunal has erred in arriving at the right conclusion regarding the permanent functional disability of the appellant.

8. The appellant proved the income of the Income Tax Returns submitted to the Income Tax Department at Exhibit-35. The learned advocate for the respondent objected to the same, submitting that the accident took place on 28.05.2018 and the said return pertains to the assessment year 2018-19. He further submitted that the income tax returns of earlier years were not initially placed on record.

9. As per the Income Tax Return at Exhibit-35, the appellant’s total income is Rs.4,49,210/-. During the argument, pursuant to the directions of this Court, the appellant subsequently produced income tax returns for the years 2012 to 2016 along with a certificate under Section 2-A of the Bankers’ Books Evidence Act, 1891. These documents are reliable which corroborate the evidence of the appellant that he had filed his income tax returns earlier to accident. Not only that, as per the directions of this Court, he also produced his bank account statements reflecting his income, which further corroborate his claim regarding his income. If all these documents

produced as per the directions of this Court are considered along with Income Tax returns at Exhibit-35, then it is sufficient to hold that the annual income of the appellant was Rs.4,49,210/- which can be rounded as Rs.4,00,000/- per annum. Considering 35% permanent functional disability, the annual loss of income comes to Rs.1,40,000/-. Thus, the claimant is entitled to compensation @ Rs.1,40,000/- per annum for his 35% permanent functional disability.

10. The appellant was 44 years old at the time of the accident. In view of the principles laid down in case of ***Pranay Sethi***, the appropriate multiplier applicable to this case is 14. Applying the multiplier of 14 to the annual loss of income of Rs.1,40,000/- the compensation towards loss of earning capacity comes to Rs.19,60,000/-. Further, as per the case in ***Pranay Sethi,*** the appellant is entitled to an addition of 25% towards loss of future prospects, as he was in the age group of 41 to 45 years. Thus, the appellant is entitled to an additional amount of Rs.4,90,000/- under the caption of loss of future prospects. In respect of medical expenses, the appellant has already received Rs.2,49,772./-. Further, Rs.25,000/- awarded towards pains and suffering, Rs.20,000/- towards a special Diet and Rs.12,000/- towards loss of income during

the period of treatment. However, the amount of compensation under the caption of loss of earning capacity with loss of future prospects was not properly carved out, as held above. Therefore, interference in the impugned judgment and award is certainly warranted.

11. The appellant is entitled to total compensation of Rs.24,50,000/-. After deducting an amount of Rs.2,11,680/-, which has already been paid to the appellant under the head of loss of earning capacity and future prospects, he is entitled to compensation of Rs.22,38,320/- with 9% interest per annum towards loss caused by 35% functional disability. The impugned judgment and award, therefore, deserves to be set aside. The appeal deserves to be partly allowed with proportionate costs. Hence, the following order:

::**ORDER**::

i. The appeal is partly allowed with proportionate costs.

ii. The impugned judgment and award are partly set aside and modified as under:

(a) The appellant is entitled to compensation of Rs.22,38,320/- with interest @ 9% per annum from the date of filing of the petition till realization of the entire amount from respondent Nos.1 and 3 jointly and severally.

iii. Respondent No.3 is directed to deposit the said amount of compensation alongwith accrued interest thereon in this Court within four (04) months and it be paid to the appellant accordingly.

iv. Modified award be drawn up accordingly

v. Record and proceedings be sent back.

vi. Pending civil applications, if any, stand disposed of.

[SANJAY A. DESHMUKH, J.]

HRJadhav