IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.83 OF 2022

Rajendra Sudam Gangurde …Appellant
Versus
Siddik Khan Ahmed Khan and anr. …Respondents

Mr. Rajan S. Pawar, for the Appellant.
Mr. Rajesh Kanojia i/by Res Juris, for the Respondent No.2.

CORAM: R. M. JOSHI, J.

DATED: 13th JANUARY, 2026.

PC:-

1. This appeal is filed for enhancement of compensation granted by the Tribunal in M.A.C.P. No. 68 of 2014 in judgment and award dated 10th January, 2018.

2. The factum of the accident, involvement of motor vehicle, its ownership and insurance are not in dispute.

3. The Claimant has examined himself and led evidence in the form of income tax returns to prove his occupation and income. He also examined doctor for proving the disability caused to him. Learned Tribunal accepted the case of the Claimant and granted compensation of Rs.12,29,230/- with interest at the rate of 6%. The Claimant is aggrieved by the quantum of compensation and

PRIYA RAJESH SOPARKAR
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seeks enhancement on the ground that the Tribunal has paid consideration the actual loss caused to the Claimant on account of injury sustained by him. Similarly, enhancement is asked for compensation for artificial limb which came to be proved by examining witness.

4. Learned counsel for the Appellant/Claimant submits that before the Tribunal it is proved that the Claimant was running a typing institution and on account of the disability caused to him for loss of his arm above elbow, there is loss of functional/occupational disability resulting into loss of his income. It is submitted that the Tribunal has committed error in fixing the amount of loss of income at Rs.5,000/- per month which on the basis of the evidence on record which would be atleast Rs.10,000/- per month. To support the submission, he drew attention of this Court to the evidence of the Claimant on record so also income tax returns.

5. Learned counsel for the Insurer opposed the appeal by contending that the Tribunal while assessing the loss of the income of the injured has rightly taken into consideration the fact income tax returns are filed after the occurrence of the accident that the income and that there is possibility of income having been shown inflated in the returns.

6. It is his further submission that in the facts of the case no fault can be found in the findings recorded by the Tribunal. Hence, appeal deserves to be rejected.

7. The Claimant has substantiated the fact that the accident in question he sustained injuries which has resulted into configuration of arm above elbow. He led evidence of doctor through whom the disability has been proved to the extent of occupational disability of 80%. The Claimant also lead evidence to show that he is running typing institution and on account of disability caused to him there is loss of income as he was required to take assistance of the others in the said business. There is no challenge made by the Insurer to the judgment and award passed by the Tribunal including the findings recorded by the Tribunal with regard to the income of Claimant on the basis of income tax returns.

8. Having regard to the said returns, the Tribunal ought to have considered the loss of the income of the Claimant to the extent of Rs.10,000/- instead of Rs.5,000/-. The computation of compensation therefore deserves modification. The computation of compensation would be as under :-

Sr. No.	Particulars	Amount
1.	Pain and sufferings	Rs.25,000/-
2.	Special diet, attendance, travelling	Rs.5,000/-
3.	Medical expenses	Rs.4,31,230/-
4.	Total future loss of earning 12 x 10,000 x 16 x 80/100	Rs.15,36,000/-
	Total	Rs.19,97,230/-

9. In view of the above, following order:-

(I) Appeal stands partly allowed.

(ii) Appellant/Claimant shall be entitled to receive an amount of Rs.19,97,730/- with interest as per order of Tribunal.

(iii) Rest of order passed by Tribunal to remain unchanged.

(R. M. JOSHI, J.)