

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 1528 OF 2025

Roshan Sampat Sapkal

...Appellant

Versus

M/s. S. R. Enterprises And Anr.

...Respondents

Ms. Rina Kundu for the Appellant.

Mr. Ramesh Cheulkar for Respondent.

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CORAM : R.M. JOSHI, J.

DATE : 18th FEBRUARY, 2026

P.C. :

1. This appeal is filed by claimant seeking enhancement of compensation granted by Tribunal by judgment and award dated 2nd September, 2019 passed in MACP No. 517 of 2019.

2. Learned Counsel for the Appellant submits that the Tribunal has erred in not considering evidence of the doctor which indicates that the claimant owing to the permanent partial disability caused to him will not be able to drive any vehicle in future and the said opinion of the medical officer has gone unchallenged in the cross examination. It is further submitted that the evidence of claimant is supported by the testimony of the employer which proves that the claimant was working as the driver prior to the occurrence of the accident. It is her contention that once these aspects are proved, the Tribunal ought to have granted the compensation to the claimant by accepting the notional income at the rate of Rs.15,000/- per month with future prospects. She also submits that the Tribunal has not granted adequate compensation under different heads such as pain and suffering, loss of amenities of life etc. and future medical expenses.

3. Learned counsel for the Respondent supported impugned judgment and award. It is his contention that going to the nature of injury caused to the claimant, it cannot be said that he will not be in a position to do any work in order to earn his livelihood. He drew attention of the court to the judgment of the Hon'ble Supreme Court in case of **Rajkumar v/s Ajaykumar and Anr. [(2011) 1 SCC 343]** to contend that unless appropriate finding is recorded that there is a permanent disablement caused to the claimant, and the same has affected his livelihood, the claimant would not be entitled for any compensation.

4. There is no dispute made by parties with regards to the fact of occurrence of accident, involvement of offending vehicle owned and insured by original opponent. The impugned judgment and award has not been challenged by them. The only issue involved in this appeal is as to whether claimant are entitle to seek enhancement of compensation.

5. The evidence on record indicates that the claimant sustained injuries in the accident in question. A disability caused to the claimant is assessed by Dr. Lokare in the cross examination. The expertise of the doctor is not under challenge. Similarly his evidence with regard to claim not being in a position to drive any vehicle henceforth has also gone unchallenged. Moreover the claimant, apart from examining himself has laid evidence of the employer to show that he was working as a driver. Even from the cross examination of the employer or claimant nothing could be elicited in order to discard the said evidence. It is thus proved that prior to accident, claimant was working as driver

and after accident, owing to disability he would not be able to drive again.

6. Dr. Lokare has also opined about future medical expenses to the extent of Rs. 3,86,000/- would be involved for the future treatment of the claimant. There is no cross examination even on this part of deposition of the doctor. The evidence in this regard therefore has gone unchallenged.

7. The evidence on record therefore indicates that claimant was able to prove on probability that claimant was working as a driver prior to the accident and going to the injury caused to him which has led to the permanent partial disability, he will not be in a position to work as a driver anytime in future.

8. Once such conclusion is drawn, the claimant would be entitled to receive compensation for loss of future income. This court however finds no reason to accept the contention of counsel for the claimant with regard to the income of the claimant at the rate of Rs.15,000/- for want of any evidence to that effect. Hence notional income of the claimant is considered at the rate of Rs.10,000/-. Adding future prospect appropriate compensation would be entitled by the claimant. In addition there to he is entitled to receive compensation for future medical expenses.

9. The computation of compensation is as follows:

Sr. No	Particulars	Amount in Rs.
1	Loss of Income (Rs.14,000/- p.m. x Rs.7,700/- (55% disability) x 12 months x 15 (multiplier)	Rs.13,86,000/-

2	Treatment Expenses	Rs.1,52,582/-
3	Expenses for future operation	Rs.3,80,000/-
4	Pain and Suffering	Rs.1,00,000/-
5	Other Misc. Expenses	Rs.25,000/-
6	Total amount	Rs.20,43,582/-
7	Amount awarded by Tribunal	Rs.2,77,582/-
8	Enhanced compensation	Rs.17,66,000/-

10. In the view of above, appeal deserve to be allowed to aforesaid extent. Hence order: -

- i. Appeal stands Partly allowed.
- ii. The claimant is entitled to enhanced compensation of Rs.17,66,000/- along with interest @7.5% p.a. from the date of claim petition till realisation of amount.
- iii. The statutory amount be transmitted to the Tribunal along with accrued interest thereon.
- iv. Parties are at liberty to withdraw it as per Rule.
- v. Claimants to pay additional court fees on enhanced amount of compensation as per Rule.
- vi. R & P be sent back to the Tribunal.
- vii. Rest of the order passed by the Tribunal to remain unchanged.

(R.M. JOSHI, J.)