

Rekha Patil

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO. 2300 OF 2025
WITH
INTERIM APPLICATION NO. 38520 OF 2025
WITH
INTERIM APPLICATION NO. 13004 OF 2025
IN
FIRST APPEAL NO. 2300 OF 2025

United India Insurance Co. Ltd.

...Appellant

Versus

Aashiana Washim Mohd. Pathan And Anr.

...Respondents

Mr. Rahul Mehta i/b KMC Legal, for the Appellant/Applicant.
Ms. Subra Karmakar, for the Respondents.

CORAM: R. M. JOSHI, J.

DATED: 27th JANUARY 2026

PC:-

1. By consent of both the sides heard finally at the stage of admission.
2. This Appeal takes exception to the Judgment and Award dated 10th July, 2025 passed in Motor Accident Claim Petition No. 1175 of 2023, whereby the Tribunal granted injury claim by directing payment of compensation of Rs.62,09,000/- with interest at the rate of 7.5% per annum from the date of claim petition till realization of the amount.

3. The appellant/insurer takes exception to the Judgment and Award essentially on the ground that the Tribunal has granted excessive compensation under different heads.

4. At the outset, learned counsel for appellant contends that the disability of the claimant as accepted by the Tribunal is on higher side. It is his submission that having regard to the nature of injury caused, the disability to this extent ought not to have been taken into consideration. It is his further submission that though the Tribunal has refused to apply judgment in case of **Rekha Jain vs. National Insurance Co. Ltd and Ors.**¹ in respect of the compensation granted under the head of pain and suffering, however, granted compensation of Rs.2,00,000/- without recording any reason or justification. It is his grievance that attendance and conveyance charges are allowed without there being any evidence led to that effect by claimant. Apart from this, exception is taken to the compensation for future prospects. On these amongst other submissions he seeks setting aside of judgment impugned.

5. Learned Counsel for the respondents/claimants supported the impugned Judgment and Award. It is her contention that owing to the fact that the question the claimant has sustained injury to his leg which has resulted into amputation of right leg. It is her submission that having regard to the nature of injuries as well as the evidence led in form of the disability certificate obtained from Government Hospital, there is no doubt about the

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assessment of disability. She further supports the compensation granted by the Tribunal under the different heads.

6. There is no dispute made by the parties with regard to the occurrence of accident on 27th May, 2023 involving motor vehicle. The issue of rash and negligent manner in which the offending vehicle was driven is supported by the evidence on record and hence, no interference is called in the findings recorded by tribunal on the said issue. Insofar as the injury and disability caused to the claimant is concerned, the claimant has led sufficient evidence on record to hold so. The evidence led by the claimant makes her case probable.

7. The learned Tribunal has accepted notional income of the claimant at the rate of Rs.15,000/- per month. Having regard to the facts of the case, the said assessment is not excessive. Once it is proved that the claimant has lost her leg, the compensation granted for loss of income so also, actual medical expenses cannot be interfered with. In view the fact that there is amputation of right leg of the claimant, she would be entitled to receive compensation for obtaining a prosthesis.

8. This Court, however, finds substance in the contention of learned Counsel for the insurer that the compensation on the ground of pain and suffering and loss of amenities is on higher side. In the facts of the case, the said compensation is reduced to the extent of Rs.1,00,000/- each.

9. Learned Counsel for the claimant submits that the claimant is major and therefore, the condition imposed by the Tribunal of depositing the amount of compensation in fixed deposit for five years be waived off. This prayer deserves acceptance.

10. In the view of above discussion, claimant is entitled to receive following compensation:

Sr. No.	Particulars	Amount (in Rs.)
1.	Disability-Loss of future income	38,88,000/-
2.	Actual medical expenses	6,97,391/-
3.	For fitment	9,43,530/-
4.	Actual loss of earning during treatment period	20,000/-
5.	Pain and suffering	2,00,000/-
6.	Loss of amenities	1,00,000/-
7.	Attendant and conveyance charges	1,00,000/-
8.	Special diet	60,000/-
	Total	60,08,921/-
	Rounded of	60,09,000/-

11. In view of the above, following order.

ORDER

- a) The Appeal stands partly allowed.
- b) The original Opponents are directed to pay jointly and severally the sum of Rs.60,09,000/- with interest at the rate of Rs. 7.5% per annum

from the date of claim Petition till realization of the amount.

- c) The claimants are permitted to withdraw the deposited amount alongwith accrued interest thereon.
- d) The statutory amount be transmitted to the Tribunal alongwith accrued interest thereon. The parties are at liberty to withdraw it, as per Rule.
- e) The condition imposed by the Tribunal of depositing the amount of compensation in fixed deposit for five years stands waived.
- f) R & P be sent back to the Tribunal.

11. In view of disposal of the Appeal, pending Application/s, if any, stand disposed of.

(R. M. JOSHI, J.)