



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

FIRST APPEAL NO.589 OF 2015

Mohd. Sadik Mohd. Sidhiki
Aged 48 years, Occup. Private
Service R/o Dahipura (Karanja),
Tq.Karanja, District Washim.

APPELLANT:
Ori. Claimant on R.A

-Versus-

1. Anil Madhukarrao Nagpurkar, Ori. Claimant on R.A.
Aged Major Occup. Driver, R/o
Ravi Nagar Chouk, Nagpur,
Tq.and dist. Nagpur.
2. Rahul Sheshrao Meshram, Aged
major, Occup. Owner of the
Vehicle, R/o, C/o Manoj
Ghagwatkar, Plot No.51,
Ramnagar, Maral Toli Nagpur
Tq.and Dist. Nagpur.
3. I.C.I.C.I. Lombard General
Insurance Company Limited,
through its Divisional Manager,
Branch Office Near Railway
Station, Vimaco Tower Amravati,
Tq. And Dist.Amravati.

RESPONDENTS
Ori. Respondents on R.A

Mr. P.R.Agrawal, Advocate for Appellant.
Mr.N.J.Patil Advocate h/f Mr. R.D.Bhuibar, Adv.for
respondent No.3.

CORAM: NEERAJ P. DHOTE, J.

DATE OF RESERVING THE JUDGMENT: 12.01.2026.

DATE OF PRONOUNCING THE JUDGMENT: 19.01.2026.



JUDGMENT :-

- 1) This is an Appeal under Section 173 of the Motor Vehicles Act, 1988 (for short MV Act), by the Original Claimant for enhancement in the compensation awarded by the learned Motor Accident Claims Tribunal, Amravati (for short 'Tribunal'), in the Claim Petition No.420 of 2009 by the judgment and Award dated 06/12/2014. The said Claim Petition was under Section 166 of the MV Act for compensation towards permanent disability caused due to motor vehicular accident.
- 2) The Appellant filed the above referred Claim Petition before the Tribunal contending that on 06.09.2009, when he was travelling on the motor cycle bearing No.MH-27-C-5717 from Karanja to Nagpur road in moderate speed, the Maroti Car bearing Registration No.-31-CS-1246, which was coming from the opposite direction in a high speed and negligent manner, gave dash to the motor cycle and the accident occurred. In the said accident, he suffered grievous injury leading to the amputation of his left leg and he suffered permanent disability.



3) The said Petition was resisted by the Respondents by filing their respective Written Statements. The Appellant led his evidence in support of the Claim Petition. On the basis of the evidence available on record, the learned Tribunal passed the Judgment and Order/Award granting compensation of Rs.5,93,820/- inclusive of no fault liability along with the interest.

4) It is submitted by the learned Advocate for the Appellant that disability suffered by the Appellant was 75% and the learned Tribunal considered the functional disability of 60% instead of 75%. The learned Tribunal considered the notional income of the Appellant on the lower side @ 3,000/- per month. The compensation under the other necessary heads is awarded on lower side. No compensation was awarded towards future loss of income. The compensation, therefore be enhanced appropriately and the Appeal be allowed.

5) In support of his submissions, he relied on the following judgments:-

i) Pratap Vs. Indrakumar Holaram Kewalramani and



ors. reported in 2025 NCBHC-NAG 14820.

ii) Vinod Bhimrao Bhalavi Vs. Maharashtra State Road Transport Corporation and anr. passed by this Court in First Appeal No.213 of 2021 decided on 15/02/2022.

iii) Seema Parveen Yusuf and anr Vs. Santosh Ramnarayan Tiwari and ors. passed by this Court in First Appeal No.1003 of 2009 decided on 09/01/2023.

6) According to the learned Advocate for the Insurance Company, in absence of income proof, the learned Tribunal has rightly considered the notional income of Rs.3,000/- per month. The learned Tribunal has appropriately considered the Claim Petition and awarded just compensation and no interference was called for in the Judgment and Award passed by the learned Tribunal.

7) In *Pratap Vs. Indrakumar Holaram Kewalramani and ors.* (supra), cited by the learned Advocate for the Appellant, the relevant judgments in respect of the personal injury claims are considered. There is reference of the judgment in *Rajkumar V.Ajay Kumar and anr. , (2011) 1 SCC,343 and Pappu Deo Yadav V.Naresh Kumar, (2022), 13 SCC 790.* The said judgments lay down the heads under which the compensation can be awarded in personal injury cases and the



principles in respect of assessing the claims towards the personal injuries. In view of the said judgments, the evidence on record is to be assessed.

- 8) The claimant has approached this Court mainly on the ground of the quantum. According to the Appellant, he was into private service and working with one transporter earning Rs.6,000/- per month. Undisputedly, the Appellant had not examined his employer to prove the income. The learned Tribunal observed that, there is no evidence that, the claimant was working as a skilled labour and on the contrary, during his cross examination, he admitted that, he can do the work, which he used to do prior to the accident. This observation by the learned Tribunal is based on the evidence on record. In the cross-examination of the Appellant he admitted that, he had not mentioned in the claim application that he was working with the transporter at Amravati and further admitted that, he had not brought on record the document to show that he was receiving Rs.6,000/- per month from the said transporter. The learned Tribunal has considered the notional income of Rs.3000/- per month. The



Accident is of September 2009. Even if, it is presumed that, the Appellant was doing the labour work, he would have been earning Rs.150/- per day. If, that per day wages are considered, the monthly income would come to Rs.4500/-. In *Pratap Vs. Indrakumar Holaram Kewalramani and ors*, (supra), the claimant therein was working with the Company and by examining the Officer from the Company, the monthly salary was proved. In *Vinod Bhimrao Bhalavi Vs. Maharashtra State Road Transport Corporation and anr*. (supra) the claimant therein was an agricultural labourer. In *Seema Parveen Yusuf and anr Vs. Santosh Ramnarayan Tiwari* and ors.(supra) the claimant was earning from the agricultural operations. Here in the case at hand, the notional monthly income of the injured is considered Rs.4500/-.

- 9) The contention of the learned Advocate for the Appellant is that, though the disability certificate indicate 75% disability, the learned Tribunal considered his functional disability to the extent of 60%. According to him, the percentage shown in disability certificate should have been



considered by the Tribunal to calculate the amount towards loss of income due to functional disability. The said contention of learned Advocate for the Appellant is unacceptable in the light of the observations in the above referred judgment in *Rajkumar V.Ajay Kumar and anr* (supra). Wherein the principles are laid down that :-

“ The percentage of permanent disability with reference to the whole body of a person cannot be assumed to be the percentage of earning capacity. To put it differently, the percentage of loss of earning capacity is not the same as the percentage of permanent disability.”

10) In the case at hand, in the cross examination of the Appellant before the learned Tribunal it has come that he used to work by sitting in the chair. The disability suffered by the Appellant is amputation of leg below the knee. Therefore, the functional disability cannot be taken as reflected in the disability certificate. The learned Tribunal by considering the schedule I part II of Workman's Compensation Act, 1923 considered at 60%. Thus, I do not find any reason to interfere with the said findings.

11) The other contention of the learned Advocate for the



Appellant is that the compensation granted under the various heads was on lower side and same be increased. The judgment of the learned Tribunal shows that for pain and suffering, the amount of Rs.50,000/- is awarded, towards medical bills amount of Rs.1,30,000/- is granted, Rs.5,000/- is awarded for special nutritious diet and Rs.10,000/- is awarded towards loss of amenities and Rs.5,700/- is awarded under actual loss of income. The observation in para 14 of the judgment of learned Tribunal shows that, while calculating the income, future prospects are taken into consideration. Undisputedly, the Appellant has not examined the treating Doctor. There is no medical evidence to show that, there was need of future medical expenses. It is no where, the case of the Appellant that, he was not married, therefore, there is no question of Awarding the compensation under head 'loss of prospects of marriage'. There is no medical evidence to show that, due to disability, there was loss of expectation of life. Under such circumstances, except the monthly income, no case is made out for granting enhanced amount under the other heads which is granted by the learned Tribunal. The



compensation amount is computed as under:-

1.	Annual income before Accident	Rs.4,500 X 12 = Rs.54,000/-
2.	Loss of future earnings per annum (60%) of the prior annual income.	Rs.32,400/-
3	Multiplier applicable to the age of 42	14
4.	Loss of future earnings	Rs.32,400 X 14 = 4,53,600/-

- 12) The amount towards other heads such as pain and sufferings, loss amenities, expenses towards medical bills, loss of income during the treatment and towards special and nutritious diet as considered by the learned Tribunal needs no interference. The said amount needs to be included in the above amount towards earnings.
- 13) In view of above, the total amount of compensation comes to Rs.6,54,300/-.
- 14) Award passed by the Tribunal stands modified to that extent only.
- 15) Award be drawn accordingly.

(NEERAJ P. DHOTE, J.)