IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO.1144 OF 2008

Babarao s/o Ganpatrao Khandare,
Age : 40 years, Occu : Advocate & Agri.,
R/o. Naik Nagar, Hingoli,
Tq. & District Hingoli. ..Appellant

Versus

1. Shaikh Farid s/o Rasul,
Age : 35 years, Occu : Business,
Bajaj Tempo Minidoor Owner,
R/o. Bhogaon,
Tq. & Dist. Hingoli.

2. The Branch Manager,
The Oriental Insurance Co. Ltd,
Branch at "Daulat" Building, Parbhani,
Tq. & Dist. Parbhani ..Respondents

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Advocate for Appellant : Mr. P.S Agrawal
Advocate for Respondent No.2 : Mr. Dhananjay Deshpande

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CORAM : S. G. CHAPALGAONKAR, J.

RESERVED ON : JULY 03, 2026

PRONOUNCED ON : JULY 13, 2026

JUDGMENT :-

1. The appellant/original claimant impugns judgment and award dated 23-04-2007 passed by Motor Accident Claims Tribunal, Hingoli in Motor Accident Claim Petition No. 137 of 2003.

2. The appellant suffered injuries in motor vehicular accident on 06-06-2002. He raised claim for compensation against owner and insurer of offending vehicle bearing Registration No.MH-22-5814. It was contention of appellant that he was a practicing

advocate at Hingoli. He suffered Intracapsular Femoral Neck fracture. Eventually, suffered impairment of 50% and consequently lost his earning capacity. Eventually, he lodged claim for compensation vide M.A.C.P. No. 137 of 2003 before Tribunal at Hingoli under Section 166 of Motor Vehicles Act, raising claim for compensation of Rs.11 lakh. The Tribunal partly allowed claim and awarded compensation of Rs.1,50,000/- along with interest at the rate 6% p.a..

3. Mr. Agrawal, learned appearing for appellant submits that present appeal is filed seeking enhancement of compensation. The respondents have accepted award as passed by Tribunal and deposited compensation amount. Therefore, limited controversy in this appeal is regarding assessment of just compensation. He would submit that appellant was a practicing advocate aged about 40 years. He suffered permanent disablement of 50% as certified by Dr. Bangar, who was member of Medical Board. However, Tribunal considered loss of earning only for a period of hospitalization and after adding medical expenses, passed a meager award. No compensation is granted towards loss of future earning, permanent disability, pain and sufferings or other components. He would therefore urge to appropriately enhance the compensation.

4. Per contra, Mr. Deshpande, learned appearing for respondent no.2/insurer supports the award. He submits that disability certificate shows that appellant has not suffered permanent

disablement. The author of certificate is not examined. The doctor who deposed before Tribunal was not expert in Orthopaedic faculty but ENT Specialist. There is nothing to indicate loss of earning suffered by appellant deference to accidental injuries. The Tribunal has appropriately assessed compensation.

5. Having considered submissions advanced by learned advocates appearing for respective parties, it can be observed that Tribunal assessed notional income of appellant @ Rs. 6,000/- per month from his practice, apart from similar income from agriculture. The Tribunal has also considered loss of income during course of hospitalization, but nothing is awarded towards future loss of earning.

6. The evidence of claimant did not suggest that he was required to stop his practice or his impairment was impediment in generating agricultural income. The Tribunal observed that he was on leave during period from 20-06-2002 to 20-09-2002 only. Thereafter, he continued his practice. The evidence of Dr. Ganesh Bangar suggests that there is no impediment for appellant to continue his practice. Even appellant states before the Court that he continued his practice with some difficulties. In that view of the matter, this Court finds that appellant could not bring on record sufficient evidence to show loss of earning deference to injuries suffered by him.

7. Although, appellant has not suffered loss of future earning, he is definitely entitled for compensation towards discomfort in life, pain and sufferings, and permanent disablement. The medical certificate issued by Civil Hospital and evidence of CW-2, Dr. Bangar shows that appellant suffered Intracapsular Femoral Neck fracture. He was admitted in hospital for treatment for a period of almost three months. The junctional location of femoral neck fracture suggest that appellant must be facing difficulties for standing longer time or walking longer distance cannot be ruled out. The evidence of Dr. Bangar can be relied to that extent. The appellant being law practitioner at Mufassil level, where physical efforts are germane to law practice, he must have suffered a lot of discomfort and frustration in life. His leg is shortened which is permanent impairment of organ.

8. In that view of matter, this Court finds it appropriate to grant additional compensation on following heads.

Sr. No.	Heads	Entitlement
1.	Pain and Sufferings	Rs. 50,000/-
2.	Discomfort and Frustration in Life	Rs.50,000/-
3.	Permanent Disablement	Rs.50,000/-
4.	Future Medical Expenses	Rs.10,000/-
5.	Nutritious Food, Attendant Charges	Rs.15,000/-
6.	Litigation Charges	Rs.25,000/-
	Total	**Rs.2,00,000/-**

9. The appellant is therefore held entitled for enhanced compensation of Rs.2,00,000/- in addition to compensation awarded by Tribunal. In result, appeal is partly allowed. The appellant is held entitled for additional compensation of Rs.2,00,000/- at the rate of 6% p.a.

10. The award be drawn up accordingly.

(S.G. CHAPALGAONKAR, J.)

Mujaheed//