

HIGH COURT OF CHHATTISGARH, BILASPUR

MAC No. 1271 of 2014

Sahadev S/o Late Bhaluram Aged About 40 Years R/o Village-
Munjala, P.S. Bhanpuri, P.S. Parpa, Distt. Bastar C.G.

---- Appellant

Versus

1. A. Mahesh S/o Simhachalam Aged About 35 Years Through- G.
Madhva Rao, R/o 50-4-167 Bonu Street Opposite Government
Junior College, Salure Distt. Vijaynagaram A.P.

2. G. Madhva Rao S/o Suryanarayan R/o 50-4-167 Bonu Street
Opposite Government Junior College Salure Distt. Vijaynagaram
A.P.

3. The Branch Manager Through- The New India Assurance Co.
Ltd., Near Guru Govind Singh Chowk, Jagdalpur, Distt. Bastar C.G.

---- Respondents

For appellant – Shri P.K. Tulsian, Advocate.

For Respondent No.3 – Shri Dashrath Gupta, Advocate.

Hon'ble Shri Justice Goutam Bhaduri

Order

1/10/2015

1. Challenge in this appeal is to the award dated 14/10/2014 passed by the Third Additional Motor Accident Claims Tribunal, Jagdalpur in claim case No.12/14. The appeal is by the claimant.

2. As per the claim petition on the date of accident on 5/10/2013 the claimant Sahdev along with his friend Chandrabhan after purchasing the cattles were coming back to his village on a bicycle. While they were coming on the road they were hit by the truck bearing No. A.P. 35-W-6165 being driven by non-applicant No.1 A. Mahesh in a rash and negligent manner whereby the claimant sustained injuries. Because of the accident left leg of the claimant was amputated whereby he became permanently disabled. On the different heads claim petition was filed. Non-applicants No.1 and 2 disowned the fact that due to rash and negligent act accident had occurred. It was further stated that on the date of accident the vehicle

was insured with non-applicant No.3 The New India Assurance Company Limited and therefore the compensation if any has to be made good by the insurance company. Tribunal after assessment of the evidence has passed a total award of Rs.4,35,900/-.

3. Learned counsel for the appellant would submit that taking into account date of accident which was of 5/10/2013 the notional income of Rs.3000/- assessed by the tribunal is on the lower side. He would submit that considering the minimum wages which was payable to the labourer at the relevant time notional income should have been at least minimum Rs.4500/- per month. He submits that future prospect should also be added for computation for loss of income. He submits that amount of compensation should be suitably enhanced.

4. Learned counsel for the insurance company would submit that award is well merited which do not call for any interference.

5. I have heard learned counsel for the parties and perused the evidence.

6. Only contention which is pressed into motion by learned counsel for the appellant is about notional income and it is stated that the same is fixed on the lower side. Perusal of the award would show that the notional income has been assessed to Rs.3000/- per month as there is nothing placed on record to prove the income. Claimant has stated that he was earning Rs.5000/- per month by engaging in business of sale of cattles. Considering the date of accident and the nature of business which was being done, assessment of income of Rs.3000/- per month as assessed by the tribunal in the facts of this case appears to be just and legal which do not call for any interference. However, perusal of the award would show that future prospect has not been added in the assessment of the income. Taking into age of the injured that he was of 42 years at the time

of accident, in view of the law laid down in **Rajesh & others Vs. Rajbir Singh & others** reported in **(2013) 9 SCC 54** which has been further reiterated by the Supreme Court in **Munna Lal Jain and another Vs. Vipin Kumar Sharma and others (2015) 6 SCC 347** there would be further addition of 30% to the income of Rs.36,000/- towards future prospect which comes to Rs.10,800/- and thus total income comes to Rs. 46,800/-.

7. Considering the fact that disablement has been found to the extent of 80%, the compensation is further assessed. Since age of the claimant was 42 years as such multiplier of 14 would be applicable whereby the assessment comes to Rs.6,55,200/- (46,800 x 14). Now coming to the percentage of disability 80% of the said amount comes to Rs.5,24,160/-.

8. Tribunal has not granted any amount for future treatment. Taking into fact that there has been amputation caused inference can be drawn that claimant has to sustain some treatment for future by way of treatment. Therefore, amount of Rs.15,000/- is awarded for future treatment. Reading of the award would show that no amount has been granted for disfigurement and pain and suffering. Considering the fact that claimant has to survive in the society with such disfigurement, therefore amount of Rs.50,000/- is awarded for disfigurement and pain and suffering and other amount awarded by the tribunal for medical bill Rs.20,900/-, for special diet Rs.5000/- and for attendant Rs.6,800/- shall remain as it is. Thus, compensation is computed as under:-

S.No.	Heads	Calculation
(i)	Notional income @ Rs.3000/- per month	Rs.36,000/- per annum
(ii)	30% of (i) above to be added as future prospects	Rs.36,000 + 10,800 = Rs. 46,800/-
(iii)	Compensation after multiplier of 14 is applied	Rs.46,800x14= Rs.6,55,200/-
(iv)	Loss of earning for disability to the extent of 80% of (iii) comes to	Rs.5,24,160/-

(v)	For future treatment	Rs.15,000/-
(vi)	For disfigurement and pain and suffering	Rs.50,000/-
(vii)	For medical bill	Rs.20,900/-
(viii)	For special diet	Rs.5000/-
(ix)	For attendant	Rs.6,800/-
	Total	Rs.6,21,860/-

9. Thus the total compensation will be Rs.6,21,860/-. After deducting Rs.4,35,900/- awarded by the tribunal, the enhancement would be Rs.1,85,960/-. The said amount shall carry interest @ 9% per annum as awarded by the tribunal from the date of filing of claim petition till the date of realization.

10. In the result, the appeal is partly allowed. The claimant will be entitled to receive Rs.1,85,960/- in addition to what is already awarded.

11. The Registry is further directed to communicate the claimant in writing the “amount of award enhanced in this appeal” as against the award made by the Tribunal below. The said communication be made in Hindi Deonagari language.

Sd/-
(Goutam Bhaduri)
JUDGE