

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 1272 of 2014**

Chandrabhan Kashyap, son of late Udkudi, aged about 50 years,
resident of village Munjala, P.S. Bhanpuri, P.S. Parpa, District Bastar,
Chhattisgarh (C.G) - ***Claimant***

--- Appellant***Versus***

1. A. Mahesh, son of Simhachalam, aged about 35 years, through G. Madhava Rao, resident of 50-4-167 Bonu Street, Opposite Government Junior College, Saluru, District Vijayanagaram (A.P) ***(Driver of the Vehicle)***
2. G. Madhava Rao, son of Suryanarayan, resident of 50-4-167 Bonu Street Opposite Government Junior College Saluru, District Vijayanagaram (A.P) - ***(Owner of the vehicle)***
3. The Branch Manager Through the New India Assurance Co. Ltd., near Gurugovind Singh Chowk, Jagdalpur, District Bastar (C.G) (Insurer of the vehicle)

---- Respondents

For Appellants	:	Mr. Pravin Tulsyan, Advocate
For Respondent No. 3	:	Mr.Dashrath Gupta, Advocate

Hon'ble Shri Justice Goutam Bhaduri**Judgment on Board****16.10.2015**

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.11/2014. The appeal is by the claimant seeking enhancement of the award.
2. As per the claim petition on the date of accident on 05.10.2013, claimant Chandrabhan along-with his friend Sahdeo after purchasing cattle were returning to their village on bicycle. While they were coming on the road, they were hit by a Truck bearing

Regn.No.A.P.35-W/6165 driven by non-applicant No.1 *A. Mahesh* in rash and negligent manner whereby the claimant sustained injuries on various parts of the body. It was also stated that because of the accident, left leg of the injured/claimant below the knee was amputated whereby he became permanently disabled. On different heads claim petition was filed seeking a total compensation of Rs.5,60,000/-. Non-applicants 1 & 2 disowned the fact that due to rash and negligent act, the 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. The Tribunal after assessment of the evidence has passed a total award of Rs.3,29,600/-.

3. Learned counsel for the appellant would submit that taking into account the date of accident which was of 05.10.2013 the notional income of Rs.3000/- taken 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 prospects should also be added while computing the loss of income. He therefore prays that the amount of compensation awarded by the Tribunal should be suitably enhanced.
4. Learned counsel for the Insurance Company would submit that the award is well merited which do not call for any interference.
5. I have heard learned counsel for the parties and have also perused the evidence on record.
6. The 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 as Rs.3000/- per month as nothing is placed on record to prove the income. Claimant has stated that he was earning Rs.5000/- per month by dealing in purchase and sale of cattle. Considering the date of accident and nature of business which was being done, assessment of income of Rs.3000/- per month made 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 no amount towards future prospect has been added while computing the income. Taking into age of the injured that he was 55 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 Hon'ble the Supreme Court in ***Munnal Lal Jain and another Vs. Vipin Kumar Sharma and others (2015) 6 SCC 347***, there would be further addition of 15% to the income of Rs.36,000/- towards future prospects which comes to Rs.5,400/- and thus the total income comes to Rs. 41,400/-.

7. Considering the fact that disablement has been found to the extent of 80%, the compensation is further assessed. Since the age of claimant was 55 years, as such, multiplier of 11 would be applicable whereby the assessment comes to Rs.4,55,400/- (41,400 x 11). Now coming to the percentage of disability, 80% of the said amount comes to Rs.3,64,320/-.
8. The learned Tribunal has further awarded Rs.3000/- for medical expenses during treatment which is very meagre. A perusal of the case file would show that the left leg of the claimant was amputated and he was admitted in hospital from 05.10.2013 to 28.10.2013 at Maharani Hospital, Jagdalpur. Taking into fact that for a considerable period, the appellant was admitted in hospital and the nature of injury as the amputation of leg was caused, an amount of Rs.20,000/- is

awarded for medical bills/expenses.

9. The Tribunal has not granted any sum towards future treatment. Taking into fact that left leg of the claimant was amputated due to injury caused in the accident, inference can be drawn that the claimant has to incur some more expenses for further treatment in future. Therefore, an 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 the claimant has to survive in the Society with such disfigurement and mental agony, therefore, further sum of Rs.50,000/- is awarded for disfigurement, pain and suffering. In addition, the amounts granted by the Tribunal i.e., Rs.5000/- for special diet and Rs.4800/- for attendant charges shall remain as it is. Thus the total compensation to be reassessed as follows:

S.No.	Heads	Calculation
(i)	Notional income @ Rs.3000/- per month as taken by the Tribunal	Rs.36,000/- per annum
(ii)	15% of (i) above to be added as future prospects	(Rs.36,000 + 5,400 = Rs.41,400/-
(iii)	Compensation after multiplier 11 is applied	Rs. 41400 x 11 = Rs. 4,55,400/-
(iv)	Loss of earning due to disability to the extent of 80% of (iii) comes to	Rs. 3,64,320/-
(iv)	Medical expenses	Rs. 20,000/-
(v)	Future Treatment	Rs. 15,000/-
(vi)	For disfigurement, pain and suffering	Rs. 50,000/-
(vii)	Special diet as granted by the Tribunal	Rs. 5,000/-
(viii)	Attendant charges as granted by the Tribunal	Rs. 4,800/-
	Total	Rs.4,59,120/-

10. Thus the total compensation will be Rs.4,59,120/-. After deducting Rs. 3,29,600./- awarded by the tribunal, the enhancement would be Rs. 1,29,520./-. The amount of compensation shall carry interest @ 9% per annum as awarded by the tribunal from the date of filing of claim petition till the date of realization.
11. In the result, the appeal is partly allowed. The claimant will be entitled to receive Rs.1,29,520/- in addition to what is already awarded.
12. 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