

NAFR

HIGH COURT of CHHATTISGARH, BILASPUR
MAC No. 705 of 2010

Manku Ram Kanwar S/o Mayaram, R/o Rampur Basti, Korba, Teh. And Distt. Korba through his next friend Smt. Nohar Bai Kanwar, aged about 48 years, W/o Mankuram Kanwar, R/o Purani Basti Korba (CG).

---- Appellant

Versus

1. Budheshwar Shrivastava, aged about 50 years S/o late Shri Lalji Shrivastava, Purani Basti, Korba, Present address Navin Trading company in front of Shiv Mandir, Power House Road, Korba (CG).
2. Shri Umesh Kumar Agrawal, aged about 43 years, S/o late Shri Sitaram Agrawal, Address Navin Trading company in front of Shiv Mandir, Power House Road, Korba (CG).
3. United India Insurance Company Ltd. through its Branch Manager, RB Traders, 1st Floor, Stadium Marg, Transport Nagar, Korba (CG).

---- Respondents

For Appellant	:	Shri Malay Kumar Bhaduri, Advocate.
For respondents No.1	:	Shri Shiv Kumar Shrivastava.
For respondents No.3	:	Shri Dashrath Gupta, Advocate.

SB: Hon'ble Shri Justice P. Sam Koshy
Judgment on Board

14/11/2017

1. This is claimant's appeal under Section 173 of the Motor Vehicles Act seeking enhancement of compensation against the award dated 14.12.2009 passed by the IInd Additional Motor Accident Claims Tribunal, Korba, (in short, the Tribunal) in Claim Case No.01/2008. Vide the impugned award, the Tribunal in an injury case has awarded compensation of Rs.2,60,000/- along with interest @ 9 percent per annum from the date of application.
2. The accident, date of accident, the resultant injury sustained by the claimant due to rash and negligent driving of driver of the offending vehicle are not in dispute. It is also not in dispute that the offending

vehicle was insured with the respondent No.3.

3. Learned counsel for the appellant submits that income of Rs.3750/- which has been assessed by the Tribunal for quantification of compensation is on the lower side. According to him, the accident is of the year, 2007 when the minimum income which the injured would have earned was around Rs.150-200 per day. According to him even an unskilled labourer during the said period would be earning more than Rs.150-200 a day which makes the monthly wages to be around Rs.4500-6000/- per month and therefore, Rs.3750/- as accepted by the Tribunal for quantification of compensation deserves to be enhanced.
4. Counsel appearing for the respondent-insurance company however opposes the appeal and submits that the finding of the Tribunal seems to be fair and reasonable and there is no scope of enhancement and thus, prayed for the rejection of the Appeal.
5. Having considered the rival contentions put forth on either side and on perusal of records, considering the date of accident to be February, 2007, the minimum income which an unskilled labour would had been earning between Rs.150-200 a day that makes it for Rs.4500-6000 per month. For the purpose of quantification of compensation, this court assesses the income of the claimant at Rs.4500/- per month.
6. If Rs.4500/- is taken as monthly income of the deceased, the yearly income would come to Rs.54,000/-. If the said amount is multiplied by applying multiplier of 11, the amount would reach to Rs.5,94,000/-, of

which assessing 46 percent to be the disability part, the loss of earning capacity in the instant case would come to Rs.2,73,240/-. It is ordered accordingly. The claimant shall also be entitled for amount of compensation awarded by the Tribunal towards medical expenses of Rs.23,000/- and Rs.10,000/- towards pain and suffering, making total amount of compensation at Rs.3,06,240/- instead of Rs.2,60,000/- as assessed by the Tribunal.

7. The enhanced amount of compensation shall also carry interest at the same rate as has been ordered by the Tribunal. Remaining part of the award shall remain intact.
8. Thus, the appeal stands allowed and disposed of.

Sd/-
(P. Sam Koshy)
Judge

inder