

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**MAC No. 124 of 2009**

Smt. Shakun Bai Verma, W/o. Anturam Verma, Aged about 39 years,
R/o. Village Adar, P.S. Nandghat, District Durg, Chhattisgarh, At
present R/o. Chingrajpara, Bilaspur, Tahsil and District Bilaspur,
Chhattisgarh

---- Appellant**Versus**

1. Janakram Chandrakar, S/o. Vishram Prasad Chandrakar, R/o. Maharana Pratap Ward, Kharripara, Mungeli, Tahsil and District Mungeli, District Bilaspur, Chhattisgarh
2. Suresh Kumar Satnami, S/o. Gorilal @ Motiram, Aged about 38 years, R/o. Mungeli, Tahsil and P.S. Mungeli, District Bilaspur, Chhattisgarh,
(Vehicle Driver), Through: Vehicle Owner, Janakram Chandrakar, S/o. Vishram Prasad Chandrakar, R/o. Maharana Pratap Ward, Kharripara, Mungeli, Tahsil and District Mungeli, District Bilaspur, Chhattisgarh.
3. Oriental Insurance Company Limited, Through: Divisional Manager, Office First Floor, Rama Trade Center, Near Bus Stand, Bilaspur, Tahsil and District Bilaspur, Chhattisgarh

----Respondents

For Appellant/Claimant	:	Mr. A.L. Singroul, Advocate, (Amicus appointed by the Court)
For Resp. No.3/Insurance Company	:	Mr. A.K. Athaley, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order on Board****12/10/2017**

1. None for the appellant when the matter is called in spite of the repeated occasions.
2. None for the respondents No.1 & 2.
3. Considering the fact that the appeal is of the year 2009, this Court proceeded to decide the appeal on merits taking the assistance of Mr. Singroul, Advocate present in the Court.

4. Present is an appeal under Section 173 of Motor Vehicles Act by the Claimant seeking enhancement of the compensation in an award dated 22.11.2008, passed by the 2nd Additional Motor Accident Claims Tribunal, Bilaspur, Chhattisgarh, in Claim Case No. 08/2008.
5. Vide the impugned award, the Tribunal in a claim case under Section 163A has allowed the application and ordered for payment of compensation of Rs.3,10,000/- with interest @ 6% per annum from the date of application.
6. Counsel for the appellant submits that it is a case where the income of the Claimant has been wrongly assessed by the Tribunal. According to the counsel for the appellant it is a case where the monthly income of the appellant was somewhere around Rs.39,000/- - Rs.40,000/-.
7. According to the counsel for the appellant the claimant had pleaded that he was getting an income of Rs. 150/- per day, which makes the income at Rs.4,000/- per month, but the Tribunal has taken his income properly and has assessed the income at Rs.2,500/- per month and has proceeded to calculate the compensation payable. He further submits that the income towards pain and sufferings, agony and other loss of amenities have not been considered appropriately by the Tribunal while awarding the compensation and prayed for suitable enhancement.
8. The counsel appearing for the Insurance Company Shri Athley opposing the appeal submits that the plain reading of the award would show that the amount of compensation awarded is just and reasonable and it is in accordance with the evidence which have come on record. Moreover, the counsel for the Insurance Company

submits that the claim case was raised under Section 163A and therefore the calculation could have been only as is prescribed under schedule 2 of the Motor Vehicles Act, but in the instant case, the Tribunal has as it is awarded much more than the amount prescribed under the schedule and for this reason also the impugned award does not warrant any interference.

9. Having heard the contentions put forth on either side and on perusal of the record what is reflected is the fact that the date of accident undisputedly was November, 2006. During the relevant period even the unskilled labour in this part of the country would be earning somewhere around Rs. 150/- a day and if that be so the claim of the claimant of earning Rs.150/- a day cannot be said to be on the higher side.
10. Usually such labours get employment for a period of around roughly 20-22 days in a month. If we take 22 days in a month and calculate the same with Rs. 150/- a day, the income which would come would be Rs.3,300/- a month. Thus, it is ordered that for the purpose of calculating the compensation, the income assessed has to be at Rs.3,300/- instead of Rs.2,500/-, which makes the yearly income of the appellant at Rs.39,600/-.
11. The Tribunal has assessed the permanent disability of the appellant at 50% considering the nature of the injuries and if that be so 50% of Rs.39,600/- would come to Rs.19,800/-, which if multiplied by applying multiplier 15, the amount would come to Rs.2,97,000/-. It is ordered accordingly that the Claimant shall be entitled for compensation of Rs.2,97,000/- towards loss of earning capacity instead of Rs.2,25,000/-. In addition, the rest of the compensation

awarded by the Tribunal shall remain intact. As such the Claimant in the instant case would get total compensation of Rs.3,82,000/- instead of Rs.3,10,000/- as assessed by the Tribunal. The said enhanced amount shall also carry interest at the same rate as awarded by the Tribunal.

12. The appeal stands allowed and disposed.
13. The Additional Registrar (Judicial) is directed to take necessary steps for ensuring that the judgment of this Court in this case is sent to the Secretary, District Legal Services Authority, Bilaspur, Chhattisgarh with a direction to ensure that the copy of this judgment is served upon the Claimant.

Sd/-
(P. Sam Koshy)
Judge

Ved