

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MA No. 157 of 2006**

Rathram Kaiwartya aged about 26 years, S/o Deendayal R/o Bareli (Kautal)
PS Seepat, Dist. Bilaspur (CG).

---- Appellant**Versus**

1. Manoj Kumar Manhar, S/o late Shankar Lal Manhar, aged about 23 years, R/o Gataura, PS Masturi, Distt. Bilaspur
2. The Oriental Insurance Co. Ltd. office Opp. High Court Bilaspur, Tah. And Distt. Bilaspur.
3. Shivkumar Kaiwartya, S/o Lusauram, aged 30 years, R/o Karra, Via Darrighat, Tah. Masturi, Distt. Bilaspur (CG).
4. Rayal Sunderam Aliyas Insurance Co.Ltd. Near UTI Bank, New Bus Stand, Pandri, Raipur, Tahsil and Distt. Bilapur.

---- Respondents

For Appellant	:	Shri Vivek Shrivastava, Advocate.
For Respondent No.2	:	Shri Ghanshyam Patel, Advocate.

SB: Hon'ble Shri Justice P. Sam Koshy**Order On Board****24/07/2017**

1. The present appeal has been filed against the award dated 26.11.2005 passed by the Additional Motor Accident Claims Tribunal, Bilaspur (in short, the Tribunal) in Claim Case No.44 of 2005. Vide the said award, the Tribunal has awarded compensation of Rs.49,170 (wrongly mentioned as Rs.46,000/- in the award) to the claimant for the injuries sustained by him in an accident that took place on 29.09.2004. Of the said amount, Rs.18,170/- was for the medical expenses incurred for which bills have been produced before the Tribunal, Rs.18,500/- towards expenses incurred for the surgery which required inserting of steel rod/plate at the place of fracture,

Rs.10,000/- for pain and suffering, Rs. 7500/- for loss of income for period of six months and Rs.5000/-towards transportation, incidental special diet, thus, totalling Rs.49,170/-.

2. Learned counsel for the appellant submits that the amount of compensation awarded by the Tribunal under the heads of pain & suffering, loss of income during treatment and also under transportation and special diet are somewhat on lower side. The accident occurred in the year, 2004 and during that period of time, the minimum wages that a labour would have earned was more than Rs.100/- a day i.e. Rs.3000/- a month. Therefore, for all practical purpose, the Tribunal should have considered the wage of the appellant to be Rs.3000/- per month and calculation should have been made accordingly. He further submits that taking into consideration the fact that the appellant had already undergone two surgeries and had to be inserted with steel rod at the place of fracture, there cannot be a doubt that he must have undergone severe pain and suffering during that period and for which an amount of Rs.10,000/- awarded is shockingly on lower side. The award under special diet and incidental expenses also is on the lower side.
3. The insurance company however opposes the same and submits that the award does not warrant interference as the same appears to be fair and reasonable and have taken into consideration the entire facts and circumstances of the case while calculating the compensation.
4. Having considered the rival contentions put forth on either side and on perusal of records, what clearly reflects is the fact that the date of

accident was 22.09.2004. It is any body's guess that in the year, 2004, even a labour going on daily work was getting somewhere around Rs. 100/- per day which would be about 3000/- in a month. Therefore, the Tribunal ought to have taken in to consideration the minimum monthly income of the deceased as Rs.3000/- for the purpose of computing the compensation under the head of loss of income during treatment.

5. In this view of the matter, this court is of the opinion that the impugned award of Tribunal warrants interference. The same deserves to be and is accordingly ordered to be modified and enhanced. Therefore, this court holds that the monthly income of the appellant was at Rs.3000/- i.e. Rs.36,000/- per annum.
6. If we take Rs.3000/- per month wages, six months loss of income of the appellant during treatment would be Rs.18000/- in place of Rs.7500/- as awarded by the Tribunal. Thus, compensation under this head is enhanced by another Rs.10,500/- in addition to Rs.7500/-.
7. Similarly, considering the fact that appellant had undergone two surgeries and was also subjected to put steel rods at the place of fracture, the amount of compensation for pain and suffering deserves to be and is hereby enhanced by another Rs.15,000/- in addition to Rs.10,000/- already awarded. Besides this, the amount of compensation awarded for transportation and special diet and extra nutrition is also enhanced by another Rs.4500/- in addition to Rs.5000/- already awarded.
8. Thus, the total compensation now payable to the claimant would be

Rs.79,170/- in place of Rs.49,170/- i.e. Rs.30,000/- over and above.

The above enhanced amount of compensation shall also carry interest at the same rate as ordered by the Tribunal. Rest of the award and the conditions mentioned in the award shall remain intact.

The award stands modified to the above extent.

9. The respondent/Oriental Insurance Company Ltd. is granted two months' time to deposit the enhanced amount of compensation of Rs.30,000/- along with interest before the concerned Tribunal. No order asto costs.

Sd/-
(P. Sam Koshy)
Judge

inder