

HIGH COURT of CHHATTISGARH, BILASPUR**MA No. 67 of 2002**

Dharam Chand Jain (since dead) through LR Smt. Kiran Jain & Ors.

Versus

Azid Ahmed Qureshi & Ors.

For Appellant	:	Shri Sameer Uraon, Advocate.
For respondents 1&2	:	Shri Vikram Dixit, Advocate.
For respondent No.3	:	Shri Pankaj Agrawal, Advocate.

SB: Hon'ble Shri Justice P. Sam Koshy

Order On Board

28/07/2017

1. The present is an appeal under Section 173 of the Motor Vehicles Act preferred by the claimants seeking for enhancement of compensation against the award dated 14.02.2000 passed by the 3rd Additional Motor Accident Claims Tribunal, Raipur, in Claim Case No.112/1999. Vide the impugned award the Tribunal in a proceeding under Section 166 of the Motor Vehicles Act filed by the claimants, has allowed the claim application and granted compensation of Rs.3,55,000/- along with interest @ 11 percent per annum from the date of application on account of injury sustained by appellant Dharam Chand Jain. It is this award which is under challenge in this appeal.
2. The factual details of the case is not in dispute and therefore this court refrain itself from narrating the facts again. The accident, the resultant injuries sustained by Dharam Chand Jain and the offending

vehicle involved in the accident as also the offending vehicle insured by the respondent No.3 are not in dispute. The development which has occurred during pendency of the appeal is that the original claimant Dharam Chand Jain has died and in his place his legal representatives have been brought on record. In the light of the facts that the injured has expired during pendency of the appeal and in view of section 306 of the Indian Succession Act, the only remedy which would be available to the legal heirs would be the pecuniary loss caused to the estate. In view of the same, the only issue which is left to be decided in the instant case is as to whether the amount of compensation payable to the claimants under medical treatment was justified or not and whether there could have been any compensation paid under the accidental expenses incurred during the course of subsequent treatment which he had undergone post award passed by this court.

3. Counsel for the appellants has referred to certain medical bills which he had filed along with an application under Order 41 rule 27 of CPC, which deals with subsequent treatment which the injured had undertaken at different hospitals at Bombay and also had the documents pertaining to the travel expenses. He also referred to statement of AW-4 Dr. Kedar Agrawal, who has deposed before the Tribunal to prove the injury and disability part sustained by the injured. He has also enclosed a document holding that there was a disability to the extent of 40% and which even after prolonged treatment could improve by only about 10% which by itself reflects

that injured did require further treatment. It also proves that there would have been permanent disability to the injured.

4. Taking into consideration the evidence and the documents which have been enclosed by the Appellant along with application it would clearly reflect that there was a continuous treatment of injured Dharamchand Jain and in between he had also been subjected to couple of surgeries at Breach Candy Hospital, Mumbai and Bombay Hospital in Mumbai and in the process huge amount of expenditure has been incurred by the family members towards medicine as well as for travelling and with incidental expenses.
5. On verifying the bills which has been enclosed along with the appeal it reflects that there is roughly an amount of Rs.3.5 Lakhs which have been incurred by the appellants during the course of treatment at Bombay. The nature of treatment and expenses which have been enclosed would also reflect the medical bills and travelling expenses. The appellants must have also incurred certain incidental expenses which they might have incurred while staying for a prolonged period at Bombay. This amount also for the purpose of quantification of the compensation is being fixed at a lump-sum amount of Rs.50,000/-.
6. Considering the total facts and circumstances of the case, this court is of the opinion that ends of justice would meet if the claimants are provided a further lump-sum compensation of Rs.4,00,000/- in addition to what has been awarded by the Tribunal. It is ordered accordingly.
7. The Insurance Company shall pay the enhanced compensation of

Rs.4,00,000/- in addition to what has already been awarded by the Tribunal within a period of two months. Rest of the conditions mentioned in the award shall remain intact. The said enhanced amount shall also carry interest at the same rate as awarded by the Tribunal. The appeal thus stands allowed.

Sd/-
(P. Sam Koshy)
Judge

inder