

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MISC. APPEAL NO. 1431 OF 2005

Mitthuram Yadav, S/o Shri Samaroo Yadav, aged about 35 years, R/o Ganjpara Kurud, Tahsil Kurud, District Dhamtari (C.G.)

... Appellant

Versus

1. Budhram @ Latti, S/o Shri Ratnu Sahu, aged about 35 years, R/o Paragaon, Tahsil Abhanpur, District Raipur (C.G.)
2. Hansraj Makkad, S/o Shri B.R. Makkad, R/o Ganjpara, Mahasamund, District Mahasamund (C.G.)
3. The New India Insurance Company Limited, in front of Project Auto Mobile, G.E. Road, Bhilai, District Durg (C.G.)

... Respondents

For Appellant	:	Mr. Amit Kumar Sahu, Advocate, under instructions of Mr. P.P. Sahu, Advocate.
For Respondent No.3	:	Mr. Deepak Gupta, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

27/09/2017

1. The present is a claimant's appeal under Section 173 of the Motor Vehicles Act, 1988, seeking enhancement of the compensation awarded by the Additional Motor Accident Claims Tribunal, Dhamtari, vide its award dated 28.4.2005, in Claim Case No. 180/2004.
2. Vide the impugned award dated 28.4.2005, the Tribunal, in a proceeding under Section 166 of the Motor Vehicles Act, in a case of amputation of right leg, has awarded a compensation of Rs. 1,71,500/- to the claimant, with interest thereon at the rate of 6% per annum.
3. The Insurance Company in the instant case had filed an appeal i.e. MAC No. 994/2005 which stood dismissed vide order dated 10.9.2012.
4. Learned counsel for the appellant-claimant submits that the amount of compensation awarded by the Tribunal is too meagre an amount and the same deserves a suitable enhancement. He further submits that it is a case where the Tribunal has not properly assessed the monthly income of the injured-claimant and has taken the notional income of Rs.15000/- for

quantifying the compensation. According to him, even the compensation given under the other heads also is unreasonably low considering the fact that the claimant, a labour, has lost his right leg by virtue of the accident which occurred.

5. Learned counsel for the Insurance Company however opposing the appeal submits that considering the fact that the date of accident in the instant case is 30.3.2002, i.e., almost about more than 15 years ago, the amount of compensation awarded appears to be just and reasonable and it does not warrant any interference and thus he prayed for the dismissal of the appeal.

6. Having considered the contentions put forth on either side and on perusal of the record, what clearly reflects is that the date of accident being of March, 2002 and it is anybody's guess that during the said period, a minimum wage which an unskilled labour would be earning would be around Rs.100/- a day which makes it around Rs.3000/- a month. Therefore the notional income drawn by the Tribunal is extremely on the lower side. For all practical purposes, the Tribunal ought to have considered the wage of claimant at Rs.3000/- a month. It is accordingly ordered that for the purpose of quantifying the compensation, the income to be assessed ought to had been Rs.3000/- a month i.e. Rs.36,000/- yearly, instead of Rs.15,000/- as quantified by the Tribunal.

7. Accepting the yearly income to Rs.36,000/-, if we quantify the compensation taking 70% disability of the claimant, 70% of Rs.36,000/- would be Rs.25,200/- which if multiplied by applying the multiplier of 16 the same would become Rs. 4,03,200/-. It is ordered accordingly that the claimant shall be entitled for a compensation of Rs. 4,03,200/- for the loss of earning capacity.

8. As regards the compensation awarded under the other heads is concerned, considering the fact that it is a case of amputation of right leg of a 35 years old young man, the claimant must have definitely undergone tremendous pain and suffering both physical and mental. This Court therefore quantifies the amount of compensation towards pain and suffering at Rs.1,00,000/- instead of Rs.2000/- as awarded by the Tribunal.

9. As regards the medical bills, since the claimant had raised the bills only for Rs.1500/-, this Court does not intend to enhance the said amount in the absence of any medical bills to support the claim. However, considering the fact that it is a case of amputation, the claimant would also require to get an artificial limb which would also incur substantial expenses. This Court therefore quantifies the compensation for the expenses towards affixing of an artificial limb at Rs.50,000/-.

10. Thus, it is ordered that the claimant in all shall be entitled to get a total compensation of Rs. 5,54,700/- instead of Rs.1,71,500/- as was awarded by the Tribunal. The said enhanced amount shall also carry interest at the same rate as has been awarded by the Tribunal.

11. The appeal stands accordingly allowed and disposed of.

Sd/-
(P. Sam Koshy)
Judge