

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MISC. APPEAL (C) NO. 1355 OF 2008

Santosh Kumar Sidar, S/o Babulal Sidar, aged about 23 years, R/o Village Chandrapur, Tahsil Dabhra, District Janjgir-Champa (C.G.)

... Appellant

Versus

1. Dilip Kumar, S/o Kartik Ram Urao, aged about 18 years, Vehicle Driver, R/o Village Chandrapur, Tahsil Dabhara, District Janjgir-Champa (C.G.)
2. Ramanand, S/o Gurumani Yadav, aged about 72 years, Vehicle Owner, R/o Chandrapur, Tahsil Dabhara, District Janjgir-Champa (C.G.)
3. The New India Insurance Company Ltd., Satigudi Chowk, Raigarh, District Raigarh (C.G.)

... Respondents

For Appellant	:	Mr. R.N. Pusty, Advocate.
For Respondent No.3	:	Mr. Dashrath Gupta, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

05/07/2017

1. The present appeal has been preferred by the claimant seeking enhancement of the compensation awarded by the Additional Motor Accidents Claims Tribunal, Sakti, District Janjgir-Champa, vide its award dated 17.3.2008 passed in Motor Accident Claim Case No. 39 of 2006.
2. It is a case where the appellant-claimant met with an accident on 10.12.2005 and sustained grievous injuries when he was travelling on a motorcycle as a pillion-rider, which was dashed by a tractor owned by Respondent No.2 and driven by Respondent No.1.
3. The said tractor which had dashed the motorcycle on which the appellant-claimant was travelling as a pillion-rider, was being driven by Respondent No.1 who on the date of accident was not having a driving licence and was also a minor aged around 16 years, though the tractor was insured with Respondent No.3.

4. On account of the injuries and disability that the claimant sustained, he moved a claim application under Section 166 of the Motor Vehicles Act before the Additional Motor Accidents Claims Tribunal, Sakti. After considering the pleadings and the evidence which have come on record, the Tribunal vide impugned award dated 17.3.2008 allowed the claim application and awarded an amount of Rs.1,00,332/- as compensation to the appellant-claimant. Of the said amount of Rs.1,00,332/-, Rs.57,132/- has been granted for the medical expenses incurred and only an amount of Rs.25,200/- has been granted towards loss of income on account of physical disablement. In addition, the Tribunal has also granted an amount of Rs.8000/- towards loss of income during the intervening period, an amount of Rs.5000/- for pain and suffering and for future inconvenience, Rs.5000/- has been awarded.

5. Learned Counsel for the appellant-claimant assailing the impugned award submits that the compensation awarded by the Tribunal is on the lower side, for the reason that firstly the income could have been calculated at least Rs.3000/- as notional income as the appellant on the date of accident was aged around 22-25 years old and he was a student of LLB Part-II. He further submits that the compensation awarded on the other heads is also on the lower side, more particularly the compensation awarded towards pain and suffering and future inconvenience.

6. Learned Counsel for Respondent No.3-Insurance Company however supported the impugned award.

7. Taking into consideration the entire facts and circumstances of the case and also considering the age of the appellant-claimant as also the fact that he was pursuing his studies at the relevant point of time, this Court is of the opinion that the amount awarded definitely is on the lower side and deserves to be enhanced and the same accordingly is enhanced

to the extent of a lump sum compensation of Rs.50,000/- in addition to what has been awarded by the Tribunal.

8. In the result, the appeal is allowed and the impugned award is enhanced to the extent of Rs.50,000/- in addition to the compensation already awarded by the Tribunal. All the other conditions including the interest part as also the provision for pay and recover as observed by the Tribunal shall remain intact.

Sd/-
(P. Sam Koshy)
Judge

/shard/