

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 381 of 2014**

Dev Charan S/o Ashulal Sahu Aged About 27 Years R/o Bhumka, Tah. Nagri, Thana- Dhamtari, Distt. Dhamtari C.G., At Present R/o Makdi Nawapara, Thana- Makdi, Distt. Bastar C.G.

---- Appellant**Versus**

1. Abdul Rashid Khan S/o Afjal Khan Aged About 32 Years R/o Sona Nagar, Thana- Sihava, Distt. Dhamtari C.G.
2. The Oriental Insurance Co. Ltd. Through - Branch Manager, Branch Office- Near Amar Talkies, Dhamtari, Distt. Dhamtari C.G.
3. Farid Beg Mirja S/o Mahboob Beg Mirja R/o Jangalpara Nagri, Thana- Nagri, Distt. Dhamtari C.G.

---- Respondents

For Appellant	:	Shri Sameer Singh, Advocate.
For respondent No.3	:	Shri Deepak Gupta, Advocate.

SB: Hon'ble Shri Justice P. Sam Koshy**Order On Board****17/07/2017**

1. This is claimant's appeal under Section 173 of the Motor Vehicles Act seeking for enhancement of compensation against the award dated 20.12.2013 passed by the Chief Motor Accident Claims Tribunal, Dhamtari (for short, the Tribunal), in Claim Case No.190/2011.
2. As against the compensation claimed by the claimant under Section 166 of Motor Vehicles Act for the injury sustained by him in motor accident on 09.10.2010, the Tribunal, on a close scrutiny of evidence led, material placed and submissions made by the parties, allowed the claim application and awarded Rs.96,905/- as compensation holding that the accident to have occurred due to rash and negligent driving of driver of Jeep bearing registration No.CG-19-T0518, driven

by respondent No.1, owned by respondent No.3 and insured by respondent No.2. Of the said amount of Rs.96,905/-, Rs.21,905/- was towards medical expenses, Rs.10,000/- towards mental agony as also the expenses towards attendant was Rs.6000/-. Similarly, transportation expenses was granted at Rs.6000/-, loss of two months income during treatment was assessed at Rs.6000/-taking notional income as Rs.3000/- per month. For the disability caused, Rs.50,000/-was awarded. It is this award which is under challenge in this appeal by the appellant seeking for suitable enhancement.

3. Learned counsel for the appellant submits that the Tribunal has erred in taking into consideration the monthly wages of the appellant at Rs.3000/- per month. In October, 2010, the minimum wages of even a labour was around Rs.150-200/- per day i.e. Rs.4500 to 6000 per month. He submits that considering the nature of injuries sustained by the appellant, the amount awarded under the head of disability is on lower side. He highlighted the deposition of doctor who had specifically stated that the disability which the appellant sustained is of 60 percent. In addition, the amount of compensation towards mental agony and pain and suffering of Rs.10000/- is also on lower side. Therefore, the award be enhanced suitably.
4. Per contra, the counsel for the insurance company opposes the appeal and submits that the award is just, proper and reasonable and does not warrant interference.
5. Having considered the rival contentions put forth on either side and on perusal of records, this court has no hesitation in accepting the

contention of appellant that the minimum wages which the appellant would have received at the time of accident would have been Rs.4500/- per month. Thus, the assessment of monthly wages of the appellant at Rs.3000/- was not proper. It ought to have been at-least Rs.4500/- per month. Thus, the amount of compensation needs re computation by taking monthly wages of the appellant at Rs. 4500/-. It is ordered accordingly. As a consequence, two months loss of income during treatment for two months would be Rs.9000/- in place of Rs.6000/-.

6. Likewise, towards disability which has been awarded by the Tribunal at Rs.50000/- also needs re-computation for the simple reason that the injury which the appellant sustained in the accident was multiple compound fracture on his left hand and also permanent disability of his right leg. Doctor VK Pandey, AW-2, has deposed proving document Ex.A/36 which is disability certificate showing disability of the appellant to the extent of 60 percent. If the disability of his hand as well as of his leg is 60 percent, the overall disability which the appellant would have suffered could not have been less than 50 percent. Therefore, compensation towards disability caused should have been calculated assessing his disability to be at 50 percent.
7. If we take the monthly wages of the appellant at Rs.4500/-, the annual income would be Rs.54000/- and if 1/3rd is deducted towards personal expenses, the amount comes to Rs.36,000/- of which, if 50 percent is deducted, the amount reaches at Rs.18,000/-. After applying the multiplier of 17 applying the judgment of the Supreme

Court in case of Sarla Verma, the amount comes to Rs.3,06,000/-.

Therefore, the appellant shall be entitled for compensation for disability caused of Rs.3,06,000/-instead of Rs.50,000/-as awarded by the Tribunal.

8. Likewise, considering the gravity of injury sustained that of multiple fracture on his left hand and the permanent disability on the right leg, the amount of compensation under mental agony also deserves to be and is enhanced to Rs.25,000/-instead of Rs.10,000/- as awarded by the Tribunal.
9. Thus, the appeal is allowed. The appellant is entitled for enhanced compensation of Rs.2,74,000/- in addition to Rs.96,905/- awarded by the Tribunal.
10. The above enhanced amount of compensation of Rs.2,74,000/- shall carry interest at the rate as quantified in the award. Rest of the conditions mentioned in the award shall remain intact.
11. The respondent No.2-Insurance Company is granted two months time to deposit the above enhanced amount of compensation before the concerned claims Tribunal.

Sd/-
(P. Sam Koshy)
Judge

inder