

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MISC. APPEAL (C) NO. 350 OF 2017

Dildas, S/o Bihari Das, aged about 23 years, Caste Panika, R/o Village Dhavaipur, Police Station Katghora, Tahsil Katghora, District Korba (C.G.)

... Appellant

Versus

1. Shani Kumar Chauhan, S/o S.G. Chauhan, R/o Village Nevsa, Chowki Hardi Bazar, Police Station Kusmunda, Tahsil Katghora, District Korba (C.G.)
2. Sandeep Agrawal, S/o Kanta Agrawal, R/o Main Road Katghora, Police Station Katghora, Tahsil Katghora, District Korba (C.G.)
3. United India Insurance Company, through Branch Manager, United Insurance Company, T.P. Nagar, Korba, District Korba (C.G.)

... Respondents

For Appellant	:	Mr. Sampurnak Gupta, Advocate, under instructions of Mr. Pushpendra Kumar Patel, Advocate.
For Respondent 2	:	Mr. Akath Kumar Yadav, Advocate.
For Respondent 3	:	Mr. Dashrath Gupta, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

06/07/2017

1. I.A. No. 2 of 2017 has been filed by the Appellant for deleting the name of Respondent No.1 from the array of Respondents, as he has since expired.
2. In view of the fact that the Respondent No.1 has since expired, I.A. No. 2 of 2017 is allowed. The array of Respondent No.1 be treated as deleted in the present appeal.
3. Learned Counsel for the Appellant is directed to make necessary amendment in this regard in the memo of appeal during the course of the day itself.
4. With the consent of the parties, heard the appeal finally on merits.
5. The present appeal has been filed by the claimant for enhancement of the compensation awarded by the Claims Tribunal in an injury case.

6. The Claims Tribunal i.e. the Additional Motor Accident Claims Tribunal, Katghora, District Korba, vide impugned award dated 24.11.2016 passed in Motor Accident Claim Case No. 296 of 2007, has awarded an amount of Rs. 3,54,000/- as compensation with interest at the rate of 9% per annum, in favour of the appellant-claimant who got injured in an vehicular accident which took place on 26.4.2005, fastening the liability to pay the compensation upon the Respondent No.3-Insurance Company.

7. Learned Counsel for the appellant-claimant confines his appeal to the extent that the income of the claimant which has been taken by the Claims Tribunal for calculating the compensation is on the lower side. According to the claimant, he was working as a Hamal and was drawing an income of more than Rs.6000/- in a month and therefore the calculation of compensation ought to had been so done which has not been done. He thus prayed for that the impugned award needs interference and modification accordingly on this ground alone.

8. Learned Counsel for Respondent No.2-Owner as well as learned Counsel for Respondent No.3-Insurance Company however opposes the appeal and submits that considering the evidence which have come on record, the Claims Tribunal has rightly awarded the compensation and there does not appear to be any scope of further interference.

9. Having considered the submissions put forth on behalf of either party and on perusal of the record, what clearly stands admitted is the fact that the Appellant-Claimant was in fact working as a Hamal at the time of accident in question and in the course of accident he sustained disability up to the extent of 64% on his left leg, on account of which he would be deprived to perform his work as Hamal in the same force as he was doing prior to the accident. Further, it is anybodies guess that on the date of accident i.e. 26.4.2005, the minimum wage even of a labourer would had

been not less than Rs.150/- and if we take this into account, the monthly income of the Appellant-Claimant would had been Rs.4500/-. Thus, the calculation done by the Claims Tribunal taking Rs.3000/- as his monthly wage is definitely on the lower side and the same deserves to be enhanced suitably. Accordingly, it is ordered that the Appellant-Claimant shall be entitled for a compensation taking his wage to be Rs.4500/- per month instead as Rs.3000/- what has been awarded by the Claims Tribunal.

10. As a consequence, the Appellant-Claimant shall be entitled for a compensation of Rs.4,86,000/- instead of Rs.3,24,000/- under the head of loss of income and disablement which has been awarded by the Claims Tribunal. Respondent No.3 shall pay a difference of amount of Rs.1,62,000/- with interest as awarded by the Claims Tribunal, within a period of two months from the date of receipt of certified copy of this order.

11. Resultantly, the appeal is allowed and the impugned judgement stands modified in terms mentioned herein above. Rest of the awarded amounts and the conditions enumerated in the impugned award shall remain intact.

Sd/-
(P. Sam Koshy)
Judge