

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MISC. APPEAL NO. 1410 OF 2005

Smt. Mohanmati, W/o Chandrabhanu Patel, age 29 years, occupation- House Wife and Labour, R/o Village- Phoolbandhia, Tahsil- Kharsia, District Raigarh (C.G.)

... Appellant

Versus

1. Johnson, S/o Tulsi Markam, aged about 27 years, occupation- Driver, R/o Nainpur, District- Mandala, at present R/o M/s Prasad & Company, Tulsi Bhawan, Hamalpara, Kharsia, District Raigarh (C.G.)
2. M/s Prasad & Company, Tulsi Bhawan, Hamalpara, Kharsia, District Raigarh (C.G.)
3. United India Insurance Co. Ltd., through Branch Manager, United India Insurance Co. Ltd., in front of Gopi Talkies, Tahsil & District Raigarh (C.G.)

... Respondents

For Appellant	:	None appeared.
For Respondent No.3	:	Ms. Chitra Shrivastava, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

16/08/2017

1. None appears for the Appellant. Since the appeal is more than 12 years old and there being no appearance on behalf of the appellant-claimant, this Court requested to Shri Sudeep Agrawal, Advocate, present in the Court, to assist the Court in disposing of the matter.
2. The present is an appeal under Section 173 of the Motor Vehicle Act, 1988, filed by the claimant assailing the award dated 29.9.2005 passed by First Additional Motor Accident Claims Tribunal, Raigarh, in Motor Accident Claim Case No. 27 of 2004.
3. Vide the impugned award, the Tribunal in a proceeding under Section 166 of the Motor Vehicles Act, 1988, in an injury case, has awarded a compensation of Rs.2000/- to the appellant-claimant with interest thereon at the rate of 7.5% per annum from the date of filing of the claim case.

4. Brief facts of the case are that on 16.6.2003 when the appellant-claimant was travelling along with her husband and her 5 years old daughter on a motorcycle, they were dashed with a dumper owned by Respondent No.2, driven by Respondent No.1 and duly insured with Respondent No.3 - Insurance Company. As a result of the accident, the claimant as well as her husband sustained injuries whereas their 5 year old daughter succumbed to the injuries that she had sustained.

5. Three claim cases were filed before the Tribunal. So far as the present claim case is concerned, the Tribunal vide the impugned award has granted a compensation of Rs.2000/- to the appellant-claimant with interest at the rate of 7.5% per annum and fastened the liability upon the Respondent-Insurance Company and the other Respondents to pay the compensation.

6. It is this award which is under challenge in the present appeal seeking enhancement of the compensation awarded by the Tribunal.

7. During the course of evidence being recorded, the Claimant has examined the Doctor, who had attended her immediately after the accident, i.e. Dr. A.M. Shrivastava, who was the Government Medical Officer. In his statement, Dr. A.M. Shrivastava has categorically stated that the claimant had received injuries on her left knee though the injuries were simple in nature. Considering the statement of the Doctor, the Tribunal has awarded a compensation of Rs.2000/- to the claimant.

8. Shri Sudeep Agrawal, learned Counsel assisting the Court on behalf of the appellant-claimant, submits that the compensation awarded by the Tribunal is too meagre an amount and the same deserves enhancement. He took the Court through the deposition of the claimant wherein she had narrated the fact where her entire family met with an accident and in the course they have lost their minor child and both the husband and the wife

have received injuries as well. He further submitted that the Doctor himself has deposed that the claimant had sustained injuries on her left leg and the Tribunal ought to have been more pragmatic and liberal while granting compensation.

9. Learned Counsel for the Insurance Company however opposes the appeal on the ground that the award passed by the Tribunal is just and reasonable and does not warrant any interference as the same has been passed considering the evidence on record.

10. Having considered the contentions put forth on either side and on perusal of the record, this Court has no hesitation in reaching to the conclusion that considering the nature of accident and the injuries sustained by the appellant-claimant which has been proved by the Doctor as well, ends of justice would meet if the compensation awarded by the Tribunal is enhanced by Rs.18,000/- making the total compensation payable to the claimant to be Rs.20,000/- instead of Rs.2000/-.

11. Accordingly, the appeal is allowed. It is ordered that the appellant-claimant shall be entitled to get a further compensation of Rs.18,000/- in addition to what she has already got and the enhanced amount shall also carry the interest at the same rate as has been awarded by the Tribunal. Rest of the directions and conditions of the award shall remain intact.

12. This Court appreciates the cooperation rendered by Shri Sudeep Agrawal, Advocate, for disposal of the matter.

Sd/-
(P. Sam Koshy)
Judge