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HIGH COURT OF CHHATTISGARH, BILASPUR

MAC No. 35 of 2014

(Arising out of award dated 29.11.2012 in Claim Case No. 05/2011 of the learned 5th Additional Motor Accident Claims Tribunal, Bilaspur)

Dhanesh Kumar Sahu S/o Late Shobharam Sahu Aged About 34 Years R/o Kasturba Nagar, P.S. Kotwali, Distt. Bilaspur C.G.

---- Appellants

Versus

1. Shri Lalit Narayan Verma & Anr. S/o Shyam Lal Varma R/o Q.No. 3/d, St 25, Sec-7, Bhilai, Distt. Durg C.G.
2. Iffco Tokio General Insu.Co.Ltd. Through- Branch/regional Manager, 3rd Floor, Shop No. 345-347, Shopping Mall, G.E. Road, Distt. Raipur C.G.

---- Respondents

For Petitioner : Shri Samir Singh, Advocate.
For Respondent No. 2 : Shri Amrito Das, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

17/07/2017

(1) This is claimant’s appeal seeking enhancement of compensation awarded by the 5th Additional Motor Accident Claims Tribunal, Bilaspur (for short ‘the Tribunal) passed in Claim Case No. 05/2011 vide its award dated 29.11.2012.

(2) As against the compensation of Rs. 13,65,000/- claimed by appellant/claimant, by filing claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short ‘the Act’) for the injuries sustained by him in the motor accident on 05.12.2009, the Tribunal awarded a

total sum of Rs. 1,49,206/- along with interest @ 7.5% per annum from the date of filing of claim petition till its actual payment.

(3) The Tribunal, on a close scrutiny of the evidence led, held: that the accident had occurred due to collusion between two motor cycles; the claimant, sitting in one of the motorcycle sustained multiple injuries in the said accident resulting in temporary disability to the extent of 40%; respondent No. 2/insurance company liable for payment of compensation to the claimants as it could not establish violation of policy conditions and assessed and awarded aforementioned sum as compensation to the claimants.

(4) Shri Shivendu Pandya, learned counsel appearing for the appellant/claimant would submit that the Tribunal has fallen in error in awarding low amount of compensation of Rs.1,49,206/- for the injuries sustained by claimant to the extent of 40% temporary disability, which deserves to be suitably enhanced.

(5) On the other hand, Shri Amrito Das, learned counsel appearing for the respondent No. 2/Insurance Company supported the award impugned.

(6) I have heard the learned counsel appearing for the parties and perused award impugned with utmost circumspection.

(7) The Tribunal after assessing the income of deceased as Rs. 260 per month/- i.e. Rs.3,120 per annum; , looking to the age of appellant as 35 years, applied the multiplier of 17 and awarded Rs.53,040/- (Rs.3,120 X 17) on account of future loss of income. The Tribunal further awarded Rs. 96,166/- on other heads as mentioned in the

impugned award and thus has awarded a total compensation of Rs.1,49,206/- along with interest @ 7.5% per annum from the date of filing of claim petition till its actual payment.

(8) The Tribunal, after considering the income of the appellant claimant as Rs.260/-per month i.e. Rs.3,120/- per annum, has awarded Rs.1,49,206/- as compensation to the claimant. In my opinion, that the Tribunal was not correct in assessing the amount of compensation by taking into consideration the income of the claimant as Rs.600/- per month only. Therefore, I propose to re-compute the amount of compensation by taking into consideration the income of the deceased as Rs.600/- per month i.e. Rs.7,200/- per annum.

(9) By multiplying the claimant's annual income of Rs. 7,200/- with the multiplier of 17, the amount of compensation on account of future loss of income would be Rs. 1,22,400/-. The claimants are further entitled for Rs. 1,17,000/- (Rs. 50,000/- for disability + Rs. 17,000/- medical expenses +Rs.50,000/- on other heads). The claimant is entitled for Rs.10,000/- as a cost and thus, the claimant would become entitle for Rs. 2,49,400/- as compensation in place of Rs. 1,49,206/- as awarded by the Tribunal.

(10) In view of foregoing, the appeal is allowed in part. The compensation of Rs. 1,49,206/- awarded by the Tribunal is enhanced to Rs. 2,49,400/- i.e. Rs. 1,00,194/- over and above the amount awarded by the Tribunal.

(11) The enhanced amount of compensation of Rs. 1,00,194/- shall carry interest @ 7.5 percent per annum from the date of application till

its actual payment. The award is modified to the above extent. Rest of the conditions mentioned in the award shall remain intact.

(12) The respondent No. 2/IFFCO Tokio General Insurance Company Limited is granted three months' time to deposit enhanced amount of compensation of Rs.1,00,194/- along with interest before the concerned Tribunal. No order as to costs.

Sd/-

(Sanjay K. Agrawal)
Judge

D/-