

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Misc. Appeal (C) No. 50 of 2017**

Ramrattan S/o Bainkunth, aged about 50 years, R/o Barbaspur, Post Bhukel, P.S. Basana, Mahasamund, Presently resident at Parmod Pradhan Kachana Road, near R. K. Mobile Raipur, Tahsil & District Raipur, Chhattisgarh(Claimant)

---- Appellant**Versus**

1. Sanjay Bhujade (Wrongly mentioned in place of Mujade) S/o Narayan Bhujade, R/o Shastri Nager Budera Road, Police Station Nandanvan Nagpur, Chhattisgarh(Driver of offending vehicle truck bearing No. C.G.04/ D.B./6094)
2. Narayan Bhujade S/o Shamro Bhujade, R/o G. E. Road Tatibandh Raipur, Tahsil & Distt. Raipur, Chhattisgarh(Owner of offending vehicle truck bearing No. C.G.04/ D.B./6094)
3. Shriram General Insurance Company Limited, through Branch Manager, Branch Office, Chota Mala Maruti Heights, G. E. Road, Sky Maruti Dealer, Raipur, Chhattisgarh(Insurer of offending vehicle truck bearing No. C.G.04/ D.B./6094)

---- Respondents

For Appellant	:	Shri A. L. Singroul, Advocate
For Respondent No.3	:	Shri Pankaj Agrawal with Smt. Prabha Sharma, Advocates

Hon'ble Shri Justice P. Sam Koshy**Order On Board****31/08/2017**

The present is an appeal under Section 173 of the Motor Vehicles Act filed by the claimant assailing the award dated 31.08.2016 passed by the 3rd Motor Accident Claims Tribunal, Raipur (CG) in Claim Case No. 219/2012. Vide the impugned award, the Tribunal in an injury case under Section 166 of

the MV Act has awarded compensation of Rs.8,92,000/- with interest @ 7.5% from the date of application of which Rs.4,30,000/- was towards medical expenses.

2. The contention of the claimant is that the Tribunal has wrongly held the notional income to be Rs.4,500/- in the present case whereas according to the claimant, he was working as a contractor and was earning roughly rupees 3 lakhs annually. Therefore, prayed for quantification of the compensation accordingly. Counsel for the appellant submits that since it is a case of amputation of left leg, the Tribunal should have considered the future prospects as a component for calculating compensation. He further submits that the Tribunal has not granted any compensation towards the special diet and the incidental conveyance charges that he had incurred during the course of the treatment. Thus, prayed for enhancement of the compensation suitably.

3. Counsel appearing for the Insurance Company, however, opposes the appeal and submits that present is a case where the award passed by the Tribunal is just and reasonable and the finding of the Tribunal is based on the evidences which have come on record. He further submits that what cannot be brushed aside is that there was no document of proof adduced by the claimant to establish the nature of work that he was performing as also the income of the claimant. Thus, prayed for dismissal of the appeal.

4. Having considered the contentions put forth on either side and on perusal of the record what clearly reflects is the fact that the Tribunal for an accident that occurred in the year 2012 has provided the notional income of Rs.4,500/- for computation of the compensation. In the opinion of this Court, in the year 2012, even an unskilled manual labour would have earned more than Rs.200/- a day. Even if we accept Rs.200/- as the minimum income of the claimant, the monthly income would be Rs.6,000/-. Thus, this Court holds

Rs.6,000/- to be the monthly income of the claimant for the purpose of calculating compensation.

5. Further, the Supreme Court in the case of **Sanjay Kumar Vs. Ashok Kumar and another** reported in **(2014) 5 SCC 330** has held that in cases of amputation, the future prospects also would be a component for the purpose of calculating compensation. Therefore, considering the age of the appellant injured and applying the principle laid down in the case of **Sarla Verma (Smt) and others v. Delhi Transport Corporation and another** reported in **(2009) 6 SCC 121**, this Court deems it fit for granting 30% of monthly income under the head of future prospects. If 30% of the monthly income is added, the total monthly income would be Rs.7,800/- (6000+1800=7800) and the yearly income would be Rs.93,600/-. If the said amount is multiplied by applying the multiplier of 13 considering the age of the claimant, the same would be Rs. 12,16,800/-. Taking into account the disability of 50% as assessed by the Tribunal, the compensation amount payable to the claimant under the head of loss of income including future income would be Rs.6,08,400/- in stead of Rs.2,97,000/- as awarded by the Tribunal.

6. Further, the amount of compensation of Rs.1,00,000 as awarded by the Tribunal under the head of pain and suffering is confirmed. Likewise, the loss of amenities of life and the attendant charges granted by the Tribunal of Rs.45,000/- do not warrant any interference. Similarly, the medical expenses of Rs.4,30,000/- granted by the Tribunal does not warrant any interference. The only additional claim which the appellant would have been entitled for is the future medical expenses, the expenses for special diet that he had required to regain his lost health and also the incidental travelling expenses incurred. Thus, under these heads, this Court feels it proper to award an amount of Rs.50,000/-. Accordingly, the total amount of compensation payable to the claimant would be Rs.12,33,400/- in stead of Rs.8,92,000/- as awarded by the

Tribunal. The enhanced amount shall also carry interest at the same rate as has been awarded by the Tribunal.

7. The present appeal thus stands allowed.

Sd/-
(P. Sam Koshy)
JUDGE