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HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 156 of 2017**

Smt. Aruna Sikarwar W/o Mahesh Singh Sikarwar, aged about 40 Years R/o Durga Niwas Routpara Jagdalpur District Bastar, Chhattisgarh.

---- Appellant**Versus**

1. Shriram Gupta S/o Motilal Gupta, aged about 45 Years R/o Rajendra Nagar Ward P.S. Bodhghat Jagdalpur District Bastar, Chhattisgarh(Driver Cum Owner Of The Vehicle)
2. Branch Manager, The Oriental Insurance Company Limited, Laxman Avenue, Opposite Krishi Upaj Mandi Jagdalpur District Bastar, Chhattisgarh(Insurer).

---- Respondents

For Appellant	:	Shri PK Tulsyan and Shri AL Singroul, Advocates.
For respondent No.2	:	Shri HP Agrawal, Advocate.

SB: Hon'ble Shri Justice P. Sam Koshy**Order On Board****18/07/2017**

1. This is claimant's appeal under Section 173 of the Motor Vehicles Act seeking for enhancement of compensation against the award dated 04.11.2016 passed by the 3rd Additional Motor Accident Claims Tribunal, Jagdalpur (for short, the Tribunal), in Claim Case No.178/2015.
2. As against the compensation claimed by the claimant under Section 166 of Motor Vehicles Act for the injury sustained by her in a motor accident on 01.12.2014, the Tribunal, on a close scrutiny of evidence led, material placed and submissions made by the parties, allowed the claim application and awarded Rs.2,38,304/- as compensation

and held that the accident had occurred due to rash and negligent driving of driver of Commander bearing registration No.CG-17-ZT-0229, driven and owned by respondent No.1 and insured by respondent No.2. Of the said amount of Rs.2,38,304/-, compensation for the disability was assessed at Rs. 95,760/- assessing the disability to be of 19 percent.

3. Learned counsel for the appellant submits that the Tribunal has erred in taking into consideration the notional income of the appellant at Rs.3000/- per month. In October, 2014, 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 disability is on lower side considering the fact that the appellant was hospitalized for continuous period of 15 days from the date of accident. In between she had also to be taken to Vishakhapattnam (A.P.) from Jagdalpur.
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 during the course of accident would had 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 the monthly wages of the appellant at Rs. 4500/-.

6. So far as the issue of disability is concerned, there is categorical evidence which has been led by the claimant as well as doctor that the disability sustained by the appellant in the accident is 57 percent. Further, two doctors from Jagdalpur and Vishakhapatnam have been examined who have given the disability of the appellant to be 57 percent. If the nature of injuries is taken into consideration, this court is of the opinion that overall disability of the claimant by virtue of injuries sustained would have been somewhere around 25 percent and not 19 percent which has been assessed by the Tribunal. The amount awarded therefore needs indulgence to that extent also.
7. Accepting the monthly wage of the appellant at Rs.4500/-, the annual income would be Rs.54000/- and if multiplier is taken of 14, the amount comes to Rs.7,56,000/-. If disability of 25 is accepted, the amount of compensation payable to the appellant would become Rs. 1,89,000/-. Therefore, the appellant shall be entitled for compensation for disability caused at Rs.1,89,000/-instead of Rs.95,760/-as awarded by the Tribunal.
8. So far as compensation awarded under pain and suffering and mental agony of Rs.10,000/- is concerned, the said amount is also on the lower side as the appellant was hospitalized for about 15 days and was initially admitted at Jagdalpur and subsequently for better treatment had to be taken to Vishakhapatnam. During this period she must have undertaken considerable pain and suffering and mental

agony also. Therefore, the said amount is enhanced to Rs.50,000/- from Rs.10,000/- as awarded by the Tribunal.

9. Thus, the appeal is allowed. The appellant is entitled for enhanced compensation of Rs1,33,240/- in addition to what has been awarded by the Tribunal.
10. The above enhanced amount of compensation of Rs.1,33,240/- 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