

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Misc. Appeal (C) No. 533 of 2014**

Pusauram Kaiwart S/o Mahettar Kaiwart aged about 40 years, R/o Banahil,
P.S. and Tah. Pamgarh, Distt. Janjgir-Champa, C.G.

Versus

1. Sanjay Singh S/o Hira Singh R/o Flat No. D/202, Usha Heights Vaishali Nagar, Bilaspur, Tah. and Distt. Bilaspur C.G. (Driver of the Xylo Car No. CG 10 F-9718)
2. Smt. Rinku Singh W/o Sanjay Singh R/o Flat No. D/202, Usha Heights, Vaishali Nagar, Bilaspur, Tah. and Distt. Bilaspur C.G. (Owner of the Xylo Car No. CG 10 F-9718)
3. The Oriental Insurance Company Limited through Branch Manager, Branch Office, Near Rajiv Plaza, Bus Stand, Bilaspur, Tah. and Distt. Bilaspur C.G. (Insurer of the Xylo Car No. CG 10 F-9718)

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For Appellant	:	Shri Anand Kesharwani, Advocate
For Respondent no.3	:	Shri Pankaj Agrawal, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****17/07/2017**

Present is an appeal under Section 173 of the Motor Vehicles Act filed by the claimant seeking enhancement. The challenge is the award dated 13.03.2014 passed by the 6th Additional Motor Accident Claims Tribunal, Bilaspur in Claim Case No.71-1/2013.

2. The case of the appellant is that on 21.02.2011 when he was going on his motorcycle along with one Santosh Singh was dashed by a Xylo Car bearing registration No. CG10 F-9718 coming from the opposite direction which belonged to the respondent no.2 and was being driven by respondent no.1. The said car was insured by respondent no.3. As a result of the accident, the

Claimant received multiple injuries on his body for which he had been subjected to treatment and even hospitalized. Later on, a claim case under Section 166 of the Motor Vehicles Act was filed seeking compensation.

3. The Tribunal considering the evidences which have come on record vide its award dated 13.03.2014 granted compensation of Rs.1,53,400/- to the claimant of which Rs.1,08,000/- was granted towards disability incurred by the appellant. In addition, an amount of Rs.29,400/- towards medical expenses and for pain and suffering and special diet Rs.10,000/- was awarded.

4. It is this award which is under challenge seeking enhancement.

5. Counsel for the appellant submits that the notional wages of Rs.3,000/- which has been accepted by the Tribunal is on the lower side and the same deserves to be enhanced. He submits that apparently, the appellant was working as a driver at the relevant point of time i.e. in the year 2011 under no circumstances, the wages of the appellant would have been less than Rs.6,000/- to 7,000/-. Likewise, the compensation for pain and suffering and special diet of Rs.10,000/- is also on the lower side taking into consideration the nature of the injuries sustained by the appellant. Thus, prayed for suitable enhancement of the compensation.

6. Counsel appearing for the respondent Insurance Company however opposing the appeal submits that the impugned award appears to be fair and reasonable and the same does not warrant any interference.

7. Considering the rival submissions put forth on either side and on perusal of the record what is undisputed fact is the accident being of the year 2011 at that time a driver must have definitely been getting somewhere around Rs.4,500/- or more in a month along with other allowances. Therefore, for all practical purposes, the wages ought to have been accepted by the Tribunal at Rs.4,500/- in stead of Rs.3,000/-. Thus, the amount of compensation payable to the appellant deserves to be enhanced under this head. If Rs.4,500/- is taken into consideration, the amount which the appellant would receive for the 25% of

disability that he had sustained on account of the said accident is Rs.1,35,000/- in stead of Rs.1,08,000/- which has been awarded by the Tribunal. Likewise, the amount of compensation paid under the head of mental agony and pain and suffering of Rs.10,000/- also deserves enhancement and accordingly is enhanced to Rs.50,000/-. The appellant in all shall be entitled for a compensation of Rs.2,14,400/- minus the amount of Rs.1,53,000/- which has already been awarded by the Tribunal. Thus, the appellant would be entitled for an additional enhanced amount of Rs.61,000/- which would be deposited by the Insurance Company within a period of two months from the date of receipt of certified copy of this order. The enhanced amount shall also carry interest at the rate as awarded by the Tribunal.

8. Accordingly, the appeal stands allowed.

Sd/-
(P. Sam Koshy)
JUDGE