

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 1260 of 2016**

Umesh Kumar Kurre S/o Ramayan Prasad Kurre, aged about 22 Years
R/o- Village- Khapridih, Thana- Naila, District- Janjgir-Champa,
(Chhattisgarh),.....(Claimant).

---- Appellant**Versus**

1. Kaliram Sahu S/o Dauram Sahu, aged about 42 Years R/o- Village- Taraud, Behind Santoshi Temple, Thana- Akaltara, District- Janjgir - Champa, (Chhattisgarh),.....(Driver).
2. Sunil Agrawal, S/o Late Girwar Agrawal, aged about 34 Years R/o- Dangrapara, Akaltara, Post / Thana- Akaltara, District- Janjgir - Champa, (Chhattisgarh),.....(Owner).
3. Regional Manager, The Oriental Insurance Co. Ltd., Branch Office- Gitanjali Building, Main Road, Old Bus Stand, Korba, Tahsil / District- Korba, (Chhattisgarh),.....(Insurance Co.).

---- Respondents

For Appellant	:	Shri Sameer Singh, Advocate.
For respondent No. 2	:	Shri Roop Naik, Advocate.
For respondent No.3	:	Shri HP Agrawal, Advocate.

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

1. This is claimant's appeal under Section 173 of the Motor Vehicles Act seeking for enhancement of compensation against the award dated 07.05.2016 passed by the Additional Motor Accident Claims Tribunal, Janjgir (for short, the Tribunal), in Claim Case No.18/2015.
2. As against the compensation claimed by the claimant under Section 166 of Motor Vehicles Act for the injuries sustained by him in the motor accident on 16.04.2012, the Tribunal, on a close scrutiny of evidence led, material placed and submissions made by the parties, allowed the claim application and awarded Rs.3,08,900/- as compensation and held

that the accident had occurred due to rash and negligent driving of Truck bearing registration No.CG-04-J-7109 driven by respondent No.1, owned by respondent No.2 and insured by respondent No.3.

3. Learned counsel for the appellant submits that the Tribunal has erred in taking into consideration the wages of the appellant at Rs.3000/- per month. In the year, 2012, the minimum wages was somewhere around Rs.150-200/- per day i.e. Rs.4500 to 6000 per month. According to him, the Tribunal ought to have atleast accounted compensation accepting wages at the minimum of that period i.e. Rs.4500/- per month. Therefore, the award amount be enhanced suitably. It is further submitted that the amount of compensation awarded under other heads also is on the lower side as no compensation has been paid for attendant as also for loss of income during treatment.
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, the accident, date of accident, the appellant sustained injuries from the offending vehicle are not in dispute. The only issue is whether the amount of compensation quantified by the Tribunal is proper or not.
6. It is anybody's guess that a worker in the year, 2012, was getting minimum wages of around Rs.150-200 per day i.e. Rs.4500 to 6000 per month. Thus, the assessment of wages of appellant at Rs.3000/- was not proper. It ought to have at-least Rs.4500/- per month. Thus, the amount of compensation needs to be re-computed by taking monthly wages of the deceased at Rs. 4500/-.

7. Taking Rs. 4500/- as monthly income of the appellant, the amount of compensation which the appellant would receive by accepting disability to be 20 percent would be Rs.1,94,400/-in place of Rs.1,29,600/- i.e. 64000/- over and above. Further, the nature of injuries sustained by the appellant has been proved by the doctor who has also been examined by the Tribunal, this court reaches to the conclusion that the amount of compensation towards pain and suffering and mental agony awarded by the Tribunal i.e. Rs.5000/-is also on the lower side. Thus, the same deserves to be and is hereby enhanced to Rs.25,000/- instead of Rs.5000/-.
8. Thus, the appeal is allowed. The appellant shall be entitled for an additional amount of Rs. 84,800/- over and above the amount what has been awarded by the Tribunal. Remaining compensation awarded under different heads do not warrant interference.
9. The above enhanced amount of compensation of Rs.84,800/- shall carry interest at the rate as quantified in the award. Rest of the conditions mentioned in the award shall remain intact.
10. The respondent No.3-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