

NAFR

HIGH COURT of CHHATTISGARH, BILASPUR**MAC No. 1071 of 2012**

Bheneswari Sahu D/o Om Prakash Sahu, aged about 22 years, R/o Pauwara, PS Utai, Distt. Durg (CG).

---- Appellant**Versus**

1. Mukesh Singh S/o Jai Prakash Singh R/o Mann Road Lines Transport Nagar, Raipur, Shop No. 8, Tatibandh, P.S. Amanaka, Raipur, Distt. Raipur C.G.
2. Kulwant Kaur W/o Balvinder Kaur R/o Mann Road Lines, Transport Nagar, Raipur, Shop No. 8, Tatibandh, P.S. Amanaka, Raipur, Distt. Raipur C.G.
3. The Oriental Insurance Company Ltd. Through Its Divisional Manager, G.E. Road, Above Yash Bank, Besides Chandra Maurya Talkies, Bhilai, Tah. And Distt. Durg C.G.

---- Respondents

For Appellant	:	Shri P.R. Patankar, Advocate.
For respondent No.3.	:	Shri Pankaj Agrawal, Advocate.

Hon'ble Shri Justice P. Sam Koshy**Judgment On Board****13.02.2018**

1. The present appeal under Section 173 of the Motor Vehicles Act has been filed by the claimant seeking enhancement of compensation against the award dated 12.06.2012 passed by the 1st Additional Chief Motor Accident Claims Tribunal, Durg (in short, the Tribunal) in Claim Case No.141/2011. Vide the said impugned award, the Tribunal has awarded a compensation of Rs.16,32,852/-of the said amount, the medical expenses alone were of Rs.14,03,452/-. Thus, the claimant has got compensation under the other heads of only Rs.2,29,400/-. It is this award which is under challenge in the present appeal.
2. The contention of the appellant is that the compensation amount awarded by the Tribunal is unreasonably low and that the same deserves to be enhanced substantially. He referred to the statement

of doctors examined during the course of evidence and submit that the claimant has become totally crippled on account of the accident and that she is not able to even sit or stand of her own and needs assistance of an attendant. She has to use clippers for her movement which she would have to use for lifetime.

3. The doctors also in their deposition has clearly stated that because of the accident the uterus and ovaries of the claimant has been totally damaged and had to be removed and that she would not be able to conceive in her lifetime again. This factor also ought to have been considered by the Tribunal while quantifying the compensation. Thus, prayed for the award to be suitably enhanced.
4. Learned counsel for the insurance company however opposing the appeal submits that the claimant have already been awarded compensation of over Rs.16,00,000/- which is just and fair compensation and no interference is required.
5. Considering the facts and circumstances of the case, what is left to be determined by this court is whether the compensation awarded by the Tribunal under the other heads are justified or not.
6. A perusal of record would show that Ravi Shankar Verma, AW-6, has been examined. He is a Dresser and used to visit the house of the claimant to dress her injuries for a continuous period of two years and he was charging Rs.2000/- per month for this. Thus, for two years, he has been paid an amount of Rs.48,000/-. Similarly, one Amrita Sahu, AW-2, was also examined who was engaged as an attendant to accompany the claimant all along and she states that she was paid

Rs.32,000/-for two years for serving as attendant to the claimant.

7. Considering the gravity of the injuries sustained by the claimant and also considering the statement of three doctors examined, it is evidently clear that under the given circumstances, the claimant must have been required an attendant so also the Dresser for her treatment and as such this court has no hesitation in accepting the versions of AW-2, Amrita Sahu so also Ravi Shankar Verma, AW-6 in respect of they being paid Rs.48,000/- and Rs.32,000/-respectively for two years as their charges. This court thus enhances the compensation under the head of attendant and Dresser charge for Rs.48,000/- and Rs.32,000/-respectively instead of Rs.10,000/- and Rs.5000/- awarded by the Tribunal.
8. So far as mental agony and pain & suffering is concerned, this court is of the opinion that the claimants considering the nature of injuries where the lower part of the body particularly lower abdominal area having been completely crushed resulting in loss of her uterus as also ovaries and that other parts of her body also got crushed to the extent that she is unable to stand and walk freely without the aid of an attendant and she has been confined to use clippers continuously for her movement, this court is of the opinion that compensation of Rs.10,000/-awarded for mental agony and pain & suffering is unreasonably low and this court quantifies the same at Rs.2,00,000/-.
9. So far as loss of amenities is concerned, considering the injuries sustained by the claimant in her prime age of 22 years and thereafter she is confined to her home for lifetime, this court assesses the same

at Rs.1,00,000/-.

10. So far as loss of earning capacity is concerned, this court assesses the income of the claimant at Rs.3000/-per month as has been assessed by the Tribunal. In addition, the claimant would also be entitled for 40 percent of the said amount towards future prospects which comes to Rs.1200/- to make monthly income at Rs.4200/- and Rs.50,400/- annually which if multiplied by 18 applying the multiplier, the amount comes to Rs.9,07,200/-. Considering the fact that the Tribunal has assessed permanent disability of 51 percent, this court assesses the same at 50 percent and accordingly the claimant shall be entitled for future loss of income of Rs.4,53,600/- instead of Rs.1,94,400/-.
11. Thus, the claimant shall be entitled for a total compensation of Rs.8,83,600/- under the other heads. In addition, the claimant would also be entitled for compensation of Rs.14,03,452/-towards medical expenses as awarded by the Tribunal to make total compensation payable at Rs.22,87,052/- instead of Rs.16,32,852/-as awarded by the Tribunal.
12. The above enhanced amount of compensation shall also carry interest at the same rate as awarded by the Tribunal.
13. Accordingly, the appeal of the appellant-claimant stands allowed and disposed of.

Sd/-
(P.Sam Koshy)
Judge