

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Misc. Appeal (C) No. 193 of 2012**

1. Khem Singh @ Ballu Thakur S/o Nehru Singh Thakur, aged about 23 years, R/o village kushalpur, Police Station Purani Basti Raipur, District Raipur (CG)

---- Appellant**Versus**

1. Jagdish @ Lallu S/o Ramanand Sahu, R/o village Magarghata Police Station Nandghat, Tahsil & District Durg (CG) (Driver of alleged vehicle bearing registration no. CG 04A 9016)
2. Ramsharan S/o Miththu Sahu, R/o village Magarghata police Station Nandghat, Tahsil & District Durg (CG) (Owner of alleged vehicle bearing registration No. CG 04A 9016)
3. The New India Insurance Company Limited through Divisional Manager, the New India Insurance Company Limited Jail Road, Raipur, Tahsil & District Raipur (CG) (Insurer of alleged vehicle bearing registration No. CG 04A 9016)

---- Respondents

For Appellant	:	Shri A. D. Kuldeep, Advocate
For Respondent no.3	:	Smt. Chitra Shrivastava, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****28/02/2018**

The present is a claimant's appeal under Section 173 of Motor Vehicles Act seeking for enhancement of compensation. The challenge is to the award dated 01.07.2011 passed by the 2nd Additional Motor Accident Claims Tribunal, Raipur (CG) in Claim Case No.132/2011. Vide the impugned award, in a case of amputation of left hand, the Tribunal has awarded compensation of Rs.6,03,000/- with interest @ 6% per annum from the date of application.

2. Contention of the counsel for the appellant is that the Tribunal has erroneously deducted 1/3rd of the income towards personal expenses while calculating the compensation so also the claimant has not been awarded compensation towards pain and suffering, loss of amenities and other incidental expenses incurred after the accident. He submits that the Tribunal has not considered future prospects also while quantifying the compensation. Thus, prayed for the award to be suitably enhanced.

3. Counsel for the insurance company opposing the appeal submits that the Tribunal has awarded more than six lakhs rupees as compensation and considering the nature of employment of the claimant, the amount of compensation seems to be fair and reasonable and the same does not warrant any interference.

4. Having heard the contentions put forth on either side and on perusal of the record, the admitted facts from the record are; the date of accident, the vehicle involved in the accident, the vehicle being duly insured with the respondent Insurance Company and the claimant suffering from amputation of his left hand from shoulder joint. Under the 1st Schedule of the Employees' Compensation Act itself since it is a schedule injury, the assessment of disability for the loss of earning capacity is shown as 90%. AW-2 Dr. J. Roy Choudhary has assessed the disability at 90%. The Tribunal has also accepted 90% disability towards loss of earning capacity.

5. Given the aforesaid admitted factual matrix what now left to be seen is whether the compensation awarded is justified or not.

6. In the light of the recent judgment of the Supreme Court, the claimant would be entitled for future prospects to be taken note of while quantifying the compensation. Accepting Rs.36,000/- as has been assessed by the Tribunal as the yearly income of the claimant, he would also be entitled for 40% of the same towards future prospects which comes to Rs.14,400/- making the yearly

income at Rs.50,400/-. 90% of the said amount being the loss of earning capacity comes to Rs.45,360/- which if multiplied applying the multiplier of 16 taking into consideration the age of the claimant to be 32 years, the amount comes to Rs.7,25,760/-. The claimant would be entitled for Rs.2,34,131/- towards medical expenses as assessed by the Tribunal. In addition, he would also be entitled for an amount of Rs.1,00,000/- towards pain and suffering and mental agony and Rs.1,25,000/- towards affixing an artificial limb. Thus, the total compensation payable to the claimant would be Rs.11,84,891/- which is rounded up at Rs.11,84,900/- in stead of Rs.6,03,000/- as assessed by the Tribunal. The enhanced amount shall also carry interest at the same rate as assessed by the Tribunal.

7. The appeal thus stands allowed.

**Sd/-
(P. Sam Koshy)
JUDGE**