

HIGH COURT OF CHHATTISGARH, BILASPUR

MAC No. 102 of 2014

1. Angad Sethiya S/o Ghasiram Sethiya Aged About 35 Years
2. Ku. Vandana Sethiya D/o Angad Sethiya Aged About 5 Years
Minor, Through her natural guardian/Father Angad Sethiya,

Both R/o Village-Parpa, Tokapal, P.S. Frazerpur, Distt. Jagdalpur C.G.

---- Appellants

Claimants

Versus

1. Smt. Dilshah Khan W/o Yunus Khan Aged About 50 Years R/o
Tikrapara, Raipur C.G. - **Owner**
2. Ghanshyam Pal S/o Alakhram Aged About 22 Years R/o Sanjay
Nagar, Madpuraina, Raipur C.G. - **Driver**
3. The Branch Manager The New India Insu.Co.Ltd., Madina
Building, Medical College Road, Raipur C.G. - **Insurer**

---- Respondent

For Appellants	:	Shri Shishir Dixit, Advocate.
For Respondent Nos 1 & 2	:	Shri Punit Ruparel, Advocate.
For Respondent No.3	:	Shri Anil Gulati, Advocate.

Hon'ble Shri Gautam Chourdiya, J

Judgment On Board

13/11/2018 :

This is an appeal under Section 173 of the Motor Vehicles Act, 1988 by the claimants seeking enhancement of compensation awarded by the Additional Motor Accident Claims Tribunal (FTC), Bastar at Jagdalpur in Claim Case No.86/2012 vide award dated 18.10.2013.

02. As per averments in the claim petition, on 29.9.2010 while Ku. Vandana, aged about 5 years, was going on foot to her home from her school, on the way she was dashed by Indica Car bearing registration No. CG 07 8984, which was being driven in a rash and negligent manner by non-applicant/respondent No.2 as a result of which she suffered grievous injuries including fracture of right leg bone.

03. The claimants, who are father of the injured claimant Ku. Vandana and the injured herself, by filing application under Section 166 of the Motor Vehicles Act, claimed total compensation of Rs.9.50 lacs under various heads from the non-applicants. However, learned Tribunal by the impugned award granted a total compensation of Rs.15,710/- in favour of the claimants with interest @ 6% per annum from the date of application till realization fastening liability on non-applicant No.3/insurance company.

04. Learned counsel for the appellants/claimants submits that the Tribunal did not consider the document Ex.P/1 i.e. Disability Certificate issued by District Medical Board wherein it has been mentioned that the injured claimant suffered 40% permanent physical disability. Further, the Tribunal has not granted any amount towards attendants and special diet. According to Dr. Lakhan Thakur (AW-1), the disability of the victim was of mild category, her muscles were weak and her disability may continue in future also. In these circumstances, the amount awarded by the Tribunal is very much on the lower side and needs to be enhanced suitably.

05. On the other hand, learned counsel for the respondents vehemently have opposed the submission of the appellants and

submitted that the award impugned is strictly in accordance with law.

06. Heard learned counsel for the parties and perused the material available on record.

07. The document of Ex.P/1 i.e. Disability Certificate has been duly proved by AW-1 Dr. Lakhan Thakur. In his cross-examination he admits that the disability suffered by the victim can be cured in future and the injury caused to her is of mild category. However, considering the age of the victim, the nature of injury suffered by her, the requirement of her future treatment for the said injury, the expenses incurred in her nutritional diet and other miscellaneous expenses, this Court is of the opinion that the claimants are entitled for Rs.30,000/- towards future medical treatment, Rs.5,000/- for special diet and Rs.10,000/- for attendant and other miscellaneous expenses, totalling to Rs.45,000/- in addition to Rs.15,710/- awarded by the Tribunal.

08. In the result, the appeal is allowed in part. The impugned award is hereby modified to the extent that the claimants are entitled for an additional compensation of Rs.45,000/- with interest @ 6% per annum from the date of application till realization. Rest of the conditions of the impugned award shall remain intact.

Sd/

(Gautam Chourdiya)

Judge