

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MISC. APPEAL (C) NO. 449 OF 2017

Shankar Lal Kaivart, S/o Shri Amrit Lal Kaivart, aged about 35 years, R/o Village Jali, Police Station Ratanpur, District Bilaspur, Civil & Revenue District Bilaspur (C.G.)

... Appellant

versus

1. Vijay Sagar Yadav, S/o Basant Sagar Yadav, aged about 30 years, R/o Village Jhabar, Police Station Dipka, District Korba (C.G.)
2. Bharat Singh, S/o Nirbhay Singh, aged about 58 years, R/o Lakhami Tower, Triveni Bhawan, Vyapar Vihar, District Bilaspur (C.G.)
3. Bajaj Allianz Insurance Company Ltd., Office Bilaspur, Tahsil and District Bilaspur (C.G.)

... Respondents

For Appellant	:	Mr. Kripesh G. Kela, Advocate.
For Respondent No.3	:	Mr. Ghan Shyam Patel, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

04/01/2018

1. The present is a claimant's appeal under Section 173 of the Motor Vehicles Act, 1988, seeking enhancement of the compensation awarded by the 9th Motor Accident Claims Tribunal, Bilaspur, vide its award dated 3.2.2017 passed in M.A.C.T. No. 888/2014.
2. Vide the impugned award, the learned Tribunal, in an injury case, under Section 166 of the Motor Vehicles Act, has awarded a compensation of Rs. 2,62,900/- to the claimant with interest thereon at the rate of 7.5% per annum from the date of filing of claim application. While passing the award, the learned Tribunal has fastened the liability of payment of compensation upon respondent no.3-insurance company indemnifying the respondents no. 1 and 2, *i.e.*, the driver and owner respectively of the offending vehicle, *i.e.*, a Trailer, bearing registration no. CG10-C-5755.
3. Learned counsel for the appellant-claimant submits that it is a case where the compensation awarded is to meagre an amount and that the Tribunal has not properly appreciated the disability as also the pain and

suffering which the claimant has undergone. He further submits that it is a case where the injured claimant has incurred the disability of around 30% which was proved by the doctor also and therefore the Tribunal should have properly assessed the income of the claimant and then should have calculated the compensation suitably. He next submits that the amount of Rs.5000/- awarded towards pain and suffering is also on the lower side and needs to be enhanced. He also submits that no compensation has been awarded for the special diet and incidental travelling allowances by the Tribunal. He thus prayed for a suitable enhancement of the compensation awarded.

4. Learned counsel for respondent no.3-insurance company however opposes the appeal and submits that the finding of the Tribunal does not seem to be unreasonable and the same is fair and justified and the appeal deserves to be rejected.

5. Having considered the rival contentions put forth on either side and on perusal of record, considering the fact that the claimant is a professional lawyer, he must have definitely incurred some loss to his professional income during the course of treatment. Further, the amount of pain and suffering that he must have undergone also would be immense and he should have been sufficiently compensated for the same.

6. This Court thus enhances the compensation towards loss of professional income from Rs.30,000/- to Rs.1,00,000/- and the compensation towards pain and suffering is enhanced from Rs.5000/- to Rs.25,000/-. In addition, the claimant shall also be entitled for an additional amount of Rs.10,000/- for special diet and other incidental expenses incurred during the course of treatment.

7. This Court thus enhances the compensation by Rs.1,00,000/-, making the total compensation payable to the claimant of **Rs.3,62,900/-**, instead of Rs.2,62,900/- as has been awarded by the Tribunal. The enhanced amount of compensation shall also carry interest at the same rate as has been fixed by the Tribunal.

8. The appeal stands allowed and disposed of accordingly.

Sd/-
(P. Sam Koshy)
Judge