

HIGH COURT of CHHATTISGARH, BILASPUR**MAC No. 830 of 2012**

1. Banwali Ram Sahu S/o Shri Umeram Sahu (Dead).
2. Nema Bai Wd/o Late Banwali Ram Sahu Aged About 57 Years
3. Shobha Ram S/o Late Banwali Ram Sahu Aged About 43 Years
4. Khemlal S/o Late Banwali Ram Sahu Aged About 27 Years
All R/o Motipur, Ward No. 6, Jain Chal, Rajnandgaon, Tah. and Distt.
Rajnandgaon C.G.

---- Appellants**Versus**

1. Damaru Ram S/o Tularam Aged About 60 Years R/o village
Tedesara, Post- Dewada, Distt. Rajnandgaon, Chhattisgarh
2. Bhavesh Kumar Agrawal R/o Near Over Bridge, Rajnandgaon, Tah.
And Distt. Rajnandgaon, Chhattisgarh.
3. ICICI Lombard Insurance Company Ltd. Station Road, Durg, Tah.
And Distt. Durg, Chhattisgarh.

---- Respondents

For Appellants	:	Shri Jitendra Gupta, Advocate.
For respondent No.3		Shri Tarkeshwar Nande, Advocate.

Hon'ble Shri Justice P. Sam Koshy**Judgment On Board****09.02.2018**

1. The present appeal under Section 173 of the Motor Vehicles Act has been filed by the claimants seeking enhancement of compensation against the award dated 05.05.2012 passed by the Motor Accident Claims Tribunal, Rajnandgaon (in short, the Tribunal) in Claim Case No.30/2008. Vide the said impugned award, the Tribunal has awarded a compensation of Rs.1,14,500/- to the claimants along with interest @ 6 percent per annum from the date of application.
2. Counsel for the appellants-claimant submits that the amount of compensation awarded by the Tribunal is unreasonably low and the same deserves to be suitably enhanced. The Tribunal has not

properly appreciated the fact that the deceased in the instant case Banwali was died because of the accidental injury that he sustained on 21.04.2008. He further submits that the Claimants are entitled for entire medical bills which were raised, though there is no reason assigned by the Tribunal for not awarding the entire medical expenses incurred during the treatment. The deceased died on 24.07.2009 i.e. after about 15 months from the date of accident and during these time he continuously took treatment and had incurred substantial expense for the same. The Tribunal has also not properly appreciated the income of the deceased who was working as a Peon in the Public Health Engineering Department of the State Govt. Further, no substantial amount has been awarded under loss of estate and other expenses. Thus, prayed for amount to be suitably enhanced.

3. The counsel for the insurance company, however opposing the appeal submits that the award seems to be fair and reasonable and there is no scope of interference. He submits that the claimants have not let evidence to establish the death of the deceased to be directly related to the accidental injuries and prayed for rejection of the appeal.
4. Considering the submissions put forth on either side and on perusal of records, true it is that the claimants have produced the bills of more than Rs.1,11,000/- which were marked as Ex. P/5 to Ex. P/200, however no reasons have been assigned by the Tribunal as to why only Rs.75,000/- has been awarded as a lump sum compensation.

So far as medical expenses are concerned, the claimants have prayed for the actual expenses which have been incurred. There cannot be a lump sum compensation for the medical expenses incurred. Thus, this court is of the opinion that the claimants would be entitled for an additional amount of Rs.36,000/- i.e. difference amount of Rs.1,11000/- and Rs. 75,000/- as awarded by the Tribunal.

5. In addition, this court also awards an additional compensation of Rs.64,000/- under the miscellaneous and other incidental expenses which have been incurred during the course of treatment of the deceased post accident period till his death. Thus, the claimants would be entitled for a total compensation of Rs.2,14,500/- instead of Rs.1,14,500/- as awarded by the Tribunal.
6. The above enhanced amount of compensation shall also carry interest at the same rate as awarded by the Tribunal.
7. Accordingly, the appeal of the appellants-claimant stands allowed and disposed of.

Sd/-

(P.Sam Koshy)
Judge