

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MISC. APPEAL (C) NO. 233 OF 2011

1. Baldou Singh (since deceased), through Legal Representative:
1(i) Balmeshwar Singh, S/o Late Baldou Singh, aged about 35 years, R/o Majgaon, Post- Chhirha, District Bemetara (C.G.)
2. Badanbai, W/o Baldou Singh, age 65 years, occupation- Housewife, R/o Village Majgaon, Police Station- Nawagarh, District Durg (C.G.), present address: Village Patharra, Post Office- Marka, Tahsil and District Kabirdham (C.G.)

... Appellants

versus

1. K.V. Shrinivas Rao, S/o K.V.K. Rao, age 43 years, R/o Vishal Nagar, behind Chhattisgarh Hotel, Telibandha, Raipur, Tahsil and District Raipur (C.G.) (Driver and Vehicle Owner)
2. Area Manager, the Reliance General Insurance Company, Branch Raipur, Tahsil and District Raipur (C.G.)

... Respondents

For Appellants	:	Mr. Vipin Singh, Advocate.
For Respondent No.2	:	Mr. Saurabh Sharma, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

09/01/2018

1. The present is an appeal under Section 173 of the Motor Vehicles Act, 1988, filed by the appellant-claimants assailing the award dated 24.7.2010 passed by the Motor Accident Claims Tribunal, Kabirdham (Kawardha) in Motor Accident Claim Case No.13/2009.
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.4,41,200/- to the claimants with interest thereon at the rate of 8% per annum from the date of filing of the claim application.
3. Learned counsel for the appellant-claimants submits that the total amount of compensation awarded by the Tribunal particularly the medical expenses is on the lower side and the same deserves for a suitable enhancement. He further submits that the injured in the instant case was totally confined to bed as a result of the accidental injuries and that even after the award was passed he had incurred a considerable expenses

towards medical expenditure and therefore the amount of compensation should be suitably enhanced accordingly.

4. Learned counsel for respondent no.2-insurance company however opposing the appeal submits that pending the appeal before this Court, the appellant no.1 Baldou Singh, the injured, has in fact died and his son and wife are already on record and that since he has expired during the pendency of appeal, the provisions of Section 306 of the Indian Succession Act would apply and that the only amount of compensation payable to the claimants would be that of any monetary expenses which they have incurred as also for any loss of estate.

5. Learned counsel for the appellant-claimants along with the appeal has produced certain bills in respect of medical treatment which they had incurred after the accident which could not be brought on record before the Tribunal as these expenses were incurred subsequently and he submits that the total expenditure incurred comes to Rs.40,190/-.

6. Given the facts and circumstances of the case, particularly considering the fact that the injured in the instant case has expired, this Court is of the opinion that the ends of justice would meet if the claimants are awarded an additional amount of Rs.58,800/- making the total compensation payable at Rs.5,00,000/-, instead of Rs.4,41,200/- which the Tribunal has awarded, which would include the medical expenses also which have been subsequently incurred.

7. Accordingly, the appeal is allowed and the impugned award stands modified and enhanced to the extent that the claimants shall be entitled for an additional amount of Rs.58,800/- with interest thereon at the same rate as has been fixed by the Tribunal.

Sd/-
(P. Sam Koshy)
Judge