

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**MAC No. 1081 of 2011**

Guddu @ Luddu, S/o. Budharu, Aged about 25 years, R/o. Village Dhodarepal, Thana Kodenar, District Bastar, Chhattisgarh

---- Appellant**Versus**

1. M.T.Pr.R. Iswaraapa, S/o. Chanaapa Sajjan, Aged about 40 years, Beach No. 941382904, R/o. I.G.P. Office 188, Battalion Camp, Jagdalpur, District Bastar, Chhattisgarh
2. Union of India, ADDI./DIGP. G.C.C.R.P.F. Rajiv Nagar Gurgaon, Through Pram Annant V-A/C Control Room Officer Mahanirikshik Takti Head Office Kandriya Reserve Pulice Bal Jagalpur, District Bastar, Chhattisgarh
3. The State of Chhattisgarh, through: Collector, Bastar, Chhattisgarh

----Respondent

For Appellant	:	Mr. Punit Ruparel, Advocate
For Respondent No.1	:	Mr. Vimlesh Bajpai, Advocate
For Respondent No.2	:	Ms. Purnima Singh, ASG
For State/Respondent No.3	:	Ms. M. Asha, Panel Lawyer

Hon'ble Shri Justice P. Sam Koshy**Order on Board****31/01/2018**

1. Present is an appeal by the Claimants seeking for enhancement.
The challenge is to the award dated 08.04.2011, passed by the Motor Accident Claims Tribunal, Bastar, at Jagdalpur, Chhattisgarh, in Claim Case No. 205/2008, whereby the Tribunal in an injury case has awarded a compensation of Rs.1,07,811/- with interest @ 6% per annum from the date of application.
2. The contention of the counsel for the appellant is that the amount of compensation awarded is too meagre an amount and the same deserves suitable enhancement. He submits that the Tribunal has not considered the disability part for quantifying the compensation and has given a lump sum compensation of Rs.80,000/- for the disability, whereas the appellant has suffered grievous injuries on his

left leg on account of which he finds it difficult to even sit and squat properly.

3. Further, there is also the evidence of the Doctor who has deposed that the Claimant is not able to run in a normal manner how he used to, prior to the accident. Likewise, he also submits that the Claimant had been subjected to undergo couple of operations for his treatment. All of which has incurred substantial medical expenses, but the Tribunal has awarded only Rs.3811/-. Likewise, he is also entitled for compensation towards pain and suffering and also the mental agony that he has undergone and prayed for the amount to be suitably assessed.
4. The counsel appearing for the respondents however opposed the appeal submits that the award of compensation is just and reasonable and that there is no scope of enhancement as the award is based on the evidence which have come on record.
5. Having heard the contentions put forth on either side and on perusal of record, taking into consideration the ratio laid down by the Hon'ble Supreme Court in the case of ***"Rajkumar vs. Ajay Kumar and Another"* (2011) 1 SCC 343**, this Court is of the opinion that though AW/3-Dr. B.K. Jha has been examined and who is also a member of medical board and has certified the disability part to be 55% which is the disability of the area, where the injury suffered. So far as the overall disability or the functional disability on account of the said accident is concerned, this Court assesses the disability at 25% instead of 55%.
6. As regards the quantum part is concerned, this Court finds that the income assessed by the Tribunal at Rs.3000/- to be reasonable, which makes it Rs.36,000/- annually, to which he would be entitled

for 40% towards future prospects, which comes to Rs.14,400/-, which would make the yearly income at Rs.50,400/-. Since this Court has assessed the disability at 25%, the Claimant would be entitled for compensation of 25% of the annual income, which comes to Rs.12,600/-, which if multiplied applying the multiplier of 18, the amount comes to Rs.2,26,800/-.

7. It is ordered that the Claimant shall be entitled for disability compensation of Rs.2,26,800/- instead of Rs.80,000/- as awarded by the Tribunal. In addition the Claimant shall also be entitled for Rs.24,000/- as awarded by the Tribunal towards the loss of income for 8 months. Further he would also be entitled for an amount of Rs.3811/- towards the medical expenses. Further the Claimant shall also be entitled for an amount of Rs.25,000/- towards pain and suffering and mental agony, which he has undergone during the treatment for the injury suffered, which would make the total compensation payable at Rs.2,79,611/-. It is ordered that the Claimant shall be entitled for total compensation of Rs.2,79,611/- instead of Rs.1,07,811/- as awarded by the Tribunal.
8. The enhanced amount shall also carry interest at the same rate as has been awarded by the Tribunal.
9. The appeal stands allowed and disposed of.

Sd/-
(P. Sam Koshy)
Judge