

HIGH COURT OF CHHATTISGARH, BILASPUR

MAC No. 233 of 2014

- Smt. Bimla Patel W/o Narendra Patel Aged About 50 Years R/o Village And Post- Bichhiya, P.S. And Tah. Saraipali, Distt. Mahasamund C.G.,

---- Appellant

Versus

1. Gopi Yadav S/o Dashrath Yadav Aged About 27 Years R/o Durgapali, Post- Rohina, P.S. And Tah. Saraipali, Distt. Mahasamund C.G.
2. Dayanidhi Patel S/o Padman Lal Patel Aged About 27 Years R/o Durgapali, Post- Rohina, P.S. And Tah. Saraipali, Distt. Mahasamund C.G.
3. The Oriental Insu. Co. Ltd. Thru- The Regional Office, Divisional Manager, The Oriental Insu.Co.Ltd., Kachhari Chowk, Madina Manjil, Raipur, Tah. And Distt. Raipur C.G.

---- Respondents

For Appellant	:	Ms. Pushplata Khalko, Advocate on behalf of Shri R. Pradhan, Advocate.
For Respondent No.3	:	Mr. NK Malviya, Advocate.

Hon'ble Shri Gautam Chourdiya, J

Judgment On Board

01/12/2018

The appellant/claimant by filing this appeal u/s 173 of the Motor Vehicles Act, 1988 is seeking enhancement of the amount of compensation awarded by II Additional Motor Accident Claims Tribunal, Raipur in Claim Case No.236/2012 vide award dated 16.12.2013.

02. Claimant's case in brief is that on 12.4.2010 while the claimant

along with other persons was travelling in a Maruti van, the said vehicle was dashed by offending vehicle Tractor bearing No. CG 06 C 3156 which was being driven in a rash and negligent manner by non-applicant No.1, owned by non-applicant No.2 and insured with non-applicant No.3, as a result of which the claimant suffered grievous injuries.

03. On claim petition being filed by the claimant u/s 166 of the Motor Vehicles Act, the Tribunal considering the evidence led by both the parties, granted a total compensation of Rs.2.20 lacs with interest @ 6% p.a. from the date of application till realization.

04. Learned counsel for the appellant/claimant submits that the injured claimant sustained 55% permanent disability according to Ex.P/61 in her hand. However, the Tribunal did not consider the same whereas though the claimant was a housewife, on account of such injury her work got affected for 5-6 months and therefore, the Tribunal should have awarded sufficient amount towards loss of earning for 5-6 months and permanent disability also.

05. Learned counsel for the respondent/insurance company supports the impugned award and submits that permanent disability does not affect the work of the claimant, it was not in respect of whole body but was in relation to a particular limb and the doctor has also admitted the fact that within 3 years, the claimant may recover from the said injury. Hence no interference is required to be made in the impugned award.

06. Heard learned counsel for the parties and perused the material

available on record.

07. Learned Tribunal in the impugned award has also considered that the claimant was not in a position to do her work normally for 5—6 months due to injury suffered by her in the accident. However, no compensation was awarded under this head by the Tribunal. Therefore, as per minimum wages, for the loss of earning of the claimant for the aforesaid period, Rs.25,000/- is awarded to her. Since no evidence has been adduced by the claimant in respect of permanent disability on account of the injury suffered by the claimant and in her cross-examination she admits that she does not need any crutch and only has some difficulty in stitching work, the Tribunal was justified in not awarding any amount under this head.

08. In the result, the appeal is allowed in part. The impugned award is hereby modified to the extent that the appellant/claimant shall be entitled for additional compensation of Rs.25,000/- with interest @ 6% per annum from the date of application till realization towards loss of earning. However, rest of the conditions of the impugned award shall remain intact.

Sd/

(Gautam Chourdiya)

Judge