

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 226 of 2014**

- Vinod Kumar S/o Manharan Aged About 27 Years R/o Ghoghra, P.S. Sakti, Distt. Janjgir-Champa C.G.

---- Appellant**Versus**

1. Sheikh Abdul Jabbar @ Nitin Khan Andors. S/o Sheikh Abdul Gani R/o Near West Railway Cabin, Champa, Tah. Champa, Civil and Revenue Distt. Janjgir-Champa C.G.
2. Sheikh Abdul Razzak S/o Abdul Gani R/o Nayapara, Champa, Civil and Revenue Distt. Janjgir-Champa C.G.
3. The Oriental Insurance Company Ltd., Branch Office, D. Commercial Complex, T.P. Nagar, Korba, Civil and Revenue Distt.. Korba C.G.

---- Respondents

For Appellant
For Respondents

Shri Deepak Kumar Singh, Advocate.
Shri N.K. Malaviya, Advocate.

Hon'ble Shri Justice Gautam Chourdiya**Order On Board****05/10/2018**

1. This is claimant's appeal seeking enhancement of compensation awarded by the 1st Additional Motor Accidents Claims Tribunal, Sakti, District Janjgir Champa, C.G. (for short 'the Tribunal') in Claim Case No.32 of 2012 vide award dated 03.12.2013.
2. Facts of the case leading to the filing of claim petition are that on the fateful day i.e. 12.03.2012, at about 10:30 am appellant, aged about 27 years, was going to village Gound along with his wife Gomti and son Akash to attend marriage ceremony in Auto Rickshaw bearing registration no. CG12-E/5817, when they reached near Dewangan Mines Devarha Road, the driver of the offending vehicle Commander

Jeep bearing registration No. CG-16-2508 driving the said vehicle in a rash and negligent manner dashed the Auto Rickshaw. As a result thereof, the appellant and other persons received severe injuries.

3. As against the compensation of Rs.23,27,222/- claimed by the appellant/claimant by filing application under Section 166 of the Motor Vehicles Act (for short 'the Act') for the injuries sustained by him in the motor accident dated 12.03.2012, the Tribunal awarded a total sum of Rs.2,70,688/- along with interest @ 6% per annum from the date of application till its actual payment.
4. The Tribunal, on a close scrutiny of the evidence led by the parties, held: the accident had occurred due to rash and negligent driving of Commandar Jeep by its driver – Sheikh Abdul, respondent No.1, in the said accident; respondent No.3, i.e. the National Insurance Company Limited liable for payment of compensation as it could not establish any violation of policy conditions; assessed and awarded the aforesaid sum as compensation.
5. Counsel appearing for the appellant, would submit that the claimant was a skilled labour by occupation and was aged about 27 years, therefore, the Tribunal has fallen in error in assessing the income of deceased at Rs.3000/- per month only and thereby in awarding low compensation which deserves to be suitably enhanced.
6. On the other hand, learned counsel appearing for respondents supported the award impugned and submitted that the amount of compensation awarded by the Tribunal is just and proper compensation, which does not call for any interference.
7. I have heard learned counsel for the parties and perused the award impugned including the record of the Tribunal.

8. Considering the over all evidence available on record and the nature of job of the claimant, the monthly income of the deceased can be taken at Rs.7,500/-, whereas the Tribunal has assessed the same at Rs.3000/-. Thus, the claimant is entitled for a sum of Rs. 15,000/- towards loss of income for two months on account of injuries suffered by him, however, the Tribunal has awarded Rs. 6,000/- under this head. Likewise, considering the gravity of the injuries suffered by the claimant coupled with pain and suffering undergone by him, the amount of Rs.5,000/- awarded by the Tribunal under this head appears to be on much lower side and needs to be enhanced to Rs.30,000/-. Thus, the claimant is entitled for a further sum of Rs.34,000/- (9,000 + 25,000/-).
9. In the result, the appeal is allowed in part. The appellant/claimant is held entitled for an additional compensation of Rs.34,000/- with interest at the rate of 6% per annum from the date of claim petition till its realization.

Sd/-
Gautam Chourdiya
Judge

Akhilesh