

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 1198 of 2018**

- Shambhu Shankar Sahu S/o Bansh Lal Sahu, Aged About 11 Years Minor, Through Amicus Quire Brother Namely Shiv Shankar Sahu, Son Of Bansh Lal Sahu, Aged About 22 Years, Resident Of Village Kuchaina, Police Station Kusmunda, Tahsil Katghora, District Korba Chhattisgarh. At Present, Resident Of Village Devsar, District Singrauli (Madhya Pradesh) (Claimant),

---- Appellant**Claimant****Versus**

1. Shrikant Pandey S/o Late Ramkaran Pandey, Aged About 31 Years R/o Pali Road Dipka, Tahsil Pali, District Korba Chhattisgarh. (Driver Of Offending Truck Vehicle Bearing Registration C.G. 12/S/1749).
2. Mohd. Janbaj Khan, S/o Shri Nausad Khan, Aged About 24 Years R/o Quarter No. B-95, Vikas Nagar Kusmunda, Tahsil Katghora, District Korba Chhattisgarh. (Owner Of Offending Truck Vehicle Bearing Registration C.G. 12/S/1749)
3. Shriram General Insurance Company Limited, Through Manager, Shriram General Insurance Company Limited Head Office E-08, EPIP Industrial Area, Seetapura, Jaipur (Rajasthan) (Insurer Of Offending Truck Vehicle Bearing Registration C.G. 12/S/1749)

---- Respondents

For Appellant	:	Ms. Laxmin Kashyap, Advocate.
For Respondent Nos.1 & 2	:	None.
For Respondent No.3	:	Mr. Amrito Das & Mr. P. Acharya, Advocates.

Hon'ble Shri Gautam Chourdiya, J**Judgment On Board****26/10/2018**

This is an appeal by the claimant/injured seeking enhancement of the compensation of Rs.2,87,342/- awarded by the Additional Tribunal to the Additional Motor Accident Claims Tribunal, Katghora in Claim Case No.91/2013 vide award dated 18.5.2018.

02. As per averments in the claim petition, on 4.10.2012 at around 6 pm Shambhu Shankar, aged 10 years, was dashed by truck bearing registration No. CG 12 S-1749 which was being driven by respondent

No.1 in a rash and negligent manner, owned by respondent No.2 and insured with respondent No.3. As a result thereof, Shambhu Shankar suffered grievous injuries on both legs and thighs, he underwent operations many times during treatment and as such, became permanent disabled. Thus, by filing an application u/s 166 of the Motor Vehicles Act, through his brother, injured Shambhu Shankar Sahu claimed total compensation of Rs.25 lacs under various heads.

03. Learned Tribunal considering the evidence led by the parties awarded a total compensation of Rs.2,87,342/- with interest @ 7% per annum from the date of application till deposit of the same with the Tribunal.

04. Learned counsel for the appellant submits that on the date of incident, the injured was 10 to 12 years of age; as per certificate Ex.P/8 given by the doctor, he suffered 66.6% permanent disability as his right leg was crushed and there was stiffness in left knee. He submits that on account of the injury sustained by the child, he would have to suffer the whole life and therefore, the Tribunal was not justified in assessing permanent disability to the extent of 26.64% only. Further, the Tribunal has erred in not granting any amount towards future prospect whereas considering the age of the child, in view of decision of the Hon'ble Supreme Court in the matter of ***National Insurance Co. Ltd. Vs. Pranay Sethi, (2017) 16 SCC 680***, at least 40% increase in the annual income ought to have been taken by the Tribunal towards future prospects. Lastly he submits that the Tribunal has also erred by not granting sufficient amount towards pain and suffering and any amount towards disfigurement of leg, future medical treatment, attendant,

nutritional diet, loss of marriage prospects, loss of amenities etc.

05. On the other hand, learned counsel for the insurance company supporting the impugned award submits that the amount awarded by the Tribunal being just and proper needs no enhancement by this Court.

06. Considering the nature and extent of injury suffered by the claimant/injured, aged 10 years; the fact that his right leg was crushed, there was stiffness in left knee, disfigurement of the leg, the permanent disability of 66.6% as per Ex.P/8, evidence of Dr. PP Singh (AW-4) and the x-ray report, this Court is of the opinion that the Tribunal was not justified in assessing the permanent disability to the whole body at 26.64% and it can safely be taken at 35%.

07. As regards income of the claimant/injured, considering the pleadings of the parties and the evidence on record, the Tribunal has taken notional income of the claimant at Rs.4646/- per month treating him unskilled labour which cannot be faulted with. Thus, keeping in view decision of the Hon'ble Apex Court in *Pranay Sethi* (supra), the compensation is recomputed as under:

Sl. No.	Heads	Calculation
01.	Income of the injured/claimant	Rs.4646/- x 12 = Rs.55,752/- per annum
02.	40% of (i) above to be added towards future prospects	(55,752 + 22,300) = Rs.78,052/-
03.	Loss of earning due to 35% permanent disability	Rs.27,318/-

04.	Multiplier of 18 to be applied	Rs.27,318 x 18 = Rs.4,91,724/-
05.	Towards loss of amenities, future medical treatment and special diet.	Rs.50,000/-
06.	Loss of marriage prospects	Rs.20,000/-
07.	For Pain & Suffering	Rs.20,000/-
	Total :	5,81,724/-

Since the Tribunal has already awarded Rs.2,87,342/-, after deducting the same from the above amount, the claimant is held entitled for additional compensation of Rs.2,94,382/- with interest @ 7% per annum from the date of application till deposit of the same with the Tribunal.

08. In the result, the appeal is allowed in part. The claimant is held entitled for additional compensation of Rs.2,94,382/- with interest @ 7% per annum from the date of application till deposit of the same with the Tribunal concerned. However, rest of the conditions of the impugned award in respect of disbursement of the compensation shall remain intact.

Sd/

(Gautam Chourdiya)

Judge