

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 1811 of 2018**

- Kendralal Banjare, S/o Shri Sukhdas Banjare, aged about 45 years, R/o Urla Bendri Road, Subhash Chowk Urla, Police Station Urla, Tahsil and District- Raipur (C.G.).

---- Appellant**Versus**

1. Rajesh Bisen S/o Shri Kishanlal Bisen, aged about 19 years, R/o Siltara, Damadpara, Police Station Dharsiwa, Tahsil and District- Raipur (C.G.).

(Driver of offending vehicle Scorpio No. C.G.04-KR-1003)

2. Suresh Kumar Pandey, S/o Late Shivnath Pandey, aged about 34 years, R/o Dharsiwa, Tahsil and District- Raipur (C.G.).

(Owner of offending vehicle Scorpio No. C.G.04-KR-1003)

3. Branch Manager, United India Insurance Company Ltd, Pandri, Raipur, Tahsil and District- Raipur (C.G.)

(Insurer offending vehicle Scorpio No. C.G.04-KR-1003)

---- Respondents

For Appellant	: Shri Malay K. Bhaduri, Advocate
For Respondents	:None

Hon'ble Shri Justice Gautam Chourdiya
Judgment on Board

27.11.2018

1. This claimant's appeal seeking enhancement of compensation awarded by Additional Motor Accident Claims Tribunal, Raipur (for short 'the Tribunal') in claims case No. 34/2016 passed on 04.08.2018.

2. Facts of the case leading to filing of the claim petition is that on 21.06.2015 while the claimant riding his motorcycle bearing registration No. CG 04 KW/4079, at that time respondent No.1 – Rajesh Bisen while driving offending vehicle Scorpio Car bearing registration No.CG-04 KR/1003 dashed the motorcycle from opposite direction, as a result of which, claimant sustained multiple injuries.

3. As against the compensation of Rs. 15,00,000/- claimed by the appellant/claimant by filing claim petition under Section 166 of Motor Vehicles Act, 1988 (for short 'MV Act') for the injuries sustained by him in the motor accident on 21.06.2015, the Tribunal awarded a total sum of Rs. 4,70,469/- as compensation along with interest @ 9 percent per annum from the date of application till its actual payment to the appellants/claimants.

4. The Tribunal, on a close scrutiny of evidence led, material placed and submissions made by the parties, held : the accident had occurred due to involvement of offending vehicle Car bearing registration No. CG-04 KR 1003 being driven by respondent No.1 – Rajesh Bisen; fastened the liability of payment of compensation upon the respondent No.3/Insurance Company as it could not establish the violation of policy conditions, and assessed and awarded aforesaid sum as compensation to the claimant.

5. Learned counsel for the appellant/claimant would submit that amount of Rs.4,70,469/- awarded by the Tribunal for the injuries sustained by the claimant in the motor accident is shockingly on lower side, which deserves to be suitably enhanced.

6. None for the respondent.

7. I have heard learned counsel appearing for the appellant and perused the impugned award including record of the Claims Tribunal.

8. The facts that accident had occurred due to rash and negligent driving of driver of offending vehicle i.e. Scorpio Car and that the respondent No. 3/Insurance company is liable for payment of compensation as it could not establish violation of policy conditions are now not in dispute.

9. The claimant is working as Mason. The Tribunal, on the basis of evidence adduced in the case, has assessed & awarded the notional income of deceased as Rs. 6,000/- per month i.e. Rs. 18,000/- towards his loss of earning capacity due to accident for the period of three months ; Rs.10,000/- towards future treatment; Rs.10,000/- towards mental agony, Rs. 10,000/- towards loss of estate and Rs.3,34,700 towards medical bills and vouchers submitted by the claimant with regard to his treatment and thus awarded a total sum of Rs. 4,70,469/-, which in the considered opinion of this Court, is just & proper compensation to the claimant

for the injuries sustained by him the motor accident occurred on 21.06.2015, thus in the facts & circumstances of the case, I do not find any illegality or perversity in the award impugned, the same is just and proper warranting no interference by this Court in the instant miscellaneous appeal.

10. For the reasons mentioned hereinabove, I do not find any scope for enhancement of the compensation awarded by the Tribunal.

11. The appeal filed by the appellants for enhancement of the compensation is therefore liable to be and is hereby dismissed. No order as to costs.

Sd/-

(Gautam Chourdiya)
Judge