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HIGH COURT OF CHHATTISGARH, BILASPUR

MAC No. 1319 of 2016

- Ku. Swaleha Khan, D/o late A. Raja Khan, aged about 31 years, R/o. Panna (M.P.), at present R/o. Subhash Nagar, Durg, Tahsil and District Durg (C.G.)

---- Appellant/claimant

Versus

1. Karamveer Singh, son of Keval Lal Singh, R/o. Sadak No.14, LIG-12, Shanti Nagar, Bhilai, District Durg (C.G.)

   (Driver of Vehicle No. C.G.10, F-6903)

2. Ashok Mehara, son of late Pyare Lal, aged about 55 years, Shop No. K-4/16, Sector-11, Zone Fish Market, Kursipar, Bhilai, District Durg (C.G.).

   (Owner of Vehicle No. C.G. 10, F-6903)

3. National Insurance Company Limited, Address G.E. Road, Power House Bhilai, through : Branch Office, Akash Ganga, Supela, Bhilai, District Durg (C.G.)

   (Insurer of Vehicle No. C.G. 10, F-6903**)**

---- Respondents

For Appellant : Shri Syed Majid Ali, Advocate
For Respondent No. 3 : Shri Qamrul Aziz, Advocate

Hon'ble Shri Justice Gautam Chourdiya
Judgment on Board

05.03.2019

01. This appeal is by the claimant against the award dated 07.05.2016 passed by Fourth Additional Motor Accident Claims

Tribunal, Durg in Claim Case No.64/2015 awarding total compensation of Rs.1,38,800/- alongwith interest @ 6 % per annum from the date of application till realization, fastening liability on the respondents jointly and severely.

02. Facts of the case leading to filing of the claim petition are that in the intervening night of 5/6-02-2015 at about 12.30 pm, the appellant/injured along with her brother Mohd. Imran and other family members was coming from Raipur to her resident at Durg in the car bearing registration No. CG-04 DB-9933 and when they reached near Nehru Nagar Square, respondent No. 1, while driving the offending vehicle bearing registration No. CG-10 F-6903, rashly and negligently, dashed the car, as a result of which, she sustained grievous injuries and also got fractured. .

03. On claim petition being filed by the claimant under Section 166 of the Motor Vehicles Act, the Tribunal considering the evidence led by both the parties passed an award as mentioned above.

04. Learned counsel appearing for the appellant/injured submits that amount awarded under the head of loss of income is on the lower side, which deserves to be enhanced suitably.

05. On the other hand, learned counsel for the respondent No. 3/Insurance Company supports the impugned award and submits that the Tribunal considering all the relevant aspects of the matters

has rightly awarded compensation to the claimant for the injuries sustained by her in the motor accident occurred in the intervening night of 5/6-02-2015, which does not call for any interference in the instant appeal.

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

07 No counter appeal is filed by the Insurance Company as submitted by learned counsel for both the parties.

08. The Tribunal considering the fact that the claimant suffered 8% permanent disability which has duly proved by her, the pain and suffering, the mental and physical agony and inconvenience caused to the claimant in future, awarded Rs. 80,000/- under the heads of loss of income, Rs. 33,800/- towards medical expenses, Rs. 10,000/- towards pain & suffering, Rs. 5,000/- towards special diet, Rs. 5,000/- toward conveyance and Rs. 5,000/- towards miscellaneous expenses and as such awarded Rs. 1,38,800/-, except the amount towards loss of earning, the amount awarded under other heads appears to be based on just and proper appreciation of the oral and documentary evidence adduced by the parties. Sofar as the amount of Rs. 80,000/- awarded towards loss of earning is concerned, considering the gravity of the injury the oral and medical evidence on record, the fact that the expense occurred in the year, 2015, the price index at the relevant time, this

Court is of the opinion that the claimant is entitled for Rs. 1,00000/- towards loss of earning in place of Rs. 80,000/-.

09. In the result, the appeal is allowed in part to the extent the claimant is entitled for the total sum of Rs. 1,58,800/- with interest @ 6% per annum from the date of application till realization. Since the Tribunal has awarded Rs. 1,38,800/- @ 6% pa, after deducting the above enhance amount the claimant is held entitled for additional compensation of Rs. 20,000/- with the interest as awarded by the Tribunal. Rest of the conditions mentioned in the award shall remain intact.

Sd/-

(Gautam Chourdiya)
Judge

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