

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 622 of 2019**

- Bedram Sonkar S/o Gopal Sonkar Aged About 38 Years R/o Village Nahardih, Village Parsatti, Police Station Magarlod, Distirct- Dhamtari, Chhattisgarh.

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

1. Komal Singh Sahu S/o Shri Bagas Ram Sahu Aged About 46 Years R/o Dharam Nagar Behind Of Axal Tower Near Pachpedi Naka, Raipur, District- Raipur, Chhattisgarh. (Driver And Owner Of Offending Vehicle Alto Car Bearing Registration No. CG-04-HB-7765)
2. Divisional Branch Manager Through Bajaj Alliance General Insurance Company Limited, Shiv Mohan Bhawan Pandri, Raipur, District- Raipur, Chhattisgarh. (Insurer Of Offending Vehicle Bus Bearing Registration No. CG-04-HB-7765)

---- Respondents

For Appellant	Shri A.D. Kuldeep, Advocate.
For Respondents	None.

Hon'ble Shri Justice Gautam Chourdiya**Judgment on Board**

02/04/2019

1. Heard on admission.
2. This is claimant's appeal seeking enhancement of compensation awarded by the 4th Additional Motor Accidents Claims Tribunal, Raipur, District Raipur, C.G. (for short 'the Tribunal') in claim case No.483 of 2015 vide award dated 14.12.2018.
3. As against compensation of Rs.48,20,000/- claimed by the appellant/claimant by filing claim application under Section 166 of the Motor Vehicles Act, 1988 (henceforth 'the Act') for the injuries sustained by him in the motor accident on 09.04.2015, the Tribunal awarded a total sum of Rs.3,97,340/- along with interest at the rate of 7.5% per annum from the

date of claim application till its actual payment, fastening the liability upon Insurance Company.

4. The Tribunal, on close scrutiny of the evidence led by both the parties held that the accident had occurred due to rash and negligent driving of Alto Car bearing no. CG04-HB-7765 by its driver-cum-owner – Komal Singh Sahu i.e., respondent No.1 herein, appellant/claimant sustained injuries in the said accident resulting into permanent disability to the extent of 25%. At the time of accident, injured/claimant was aged about 38 years, earning Rs.25,000/- by doing the agriculture work, running a grocery shop and maintaining crusher machine.
5. Shri Anil Das Kuldeep, learned counsel appearing for the appellant submits that the amount of compensation awarded by the Tribunal is shockingly on lower side, which deserves to be suitably enhanced.
6. I have heard learned counsel for the appellant and perused the award impugned.
7. The fact that the accident had occurred due to rash and negligent driving of Truck by its driver i.e. respondent no.1 and that respondent No.2/insurance company is liable for payment of compensation as it could not establish any violation of policy conditions, is not in dispute.
8. The Tribunal considering the pleadings of the claimant that prior to the accident he was doing the agriculture work, running a grocery shop and maintaining crusher machine, which could not be rebutted by the non-applicants, on notional basis assessed the monthly income of the claimant as Rs.8,000/- i.e. Rs.96,000/- per annum. Further, the Tribunal considering the age of the injured on the basis of medical documents as 38 years, in view of decision in ***National Insurance Co. Ltd. Vs. Pranay Sethi, (2017) 16 SCC 680*** granted 40% towards future prospect and in view of decision in ***Smt. Sarla Verma and others v. Delhi Transport Corporation and another, (2009) 6 SCC 121***, applied multiplier of 15 and

as such assessed Rs.20,16,000/- as total earning. Further, the Tribunal considering the permanent disability in the leg of the claimant as per Ex.P-54, the nature and job of the claimant, assessed the functional disability 10% and accordingly granted Rs.2,01,600/- towards loss of future earning. This apart the Tribunal awarded a sum of Rs.16,000/- for loss of earning during treatment for two months, Rs.77,740/- for medical treatment, Rs.25,000/- for pain and suffering & mental agony, Rs.7,000/- for attendant, Rs.20,000/- for special diet & other heads, Rs.50,000/- for future medical expenses and thus awarded total sum of Rs.3,97,400/-. The aforesaid assessment of compensation by the Tribunal appears to be just and proper appreciation of the over all evidence available on record and as such the same does not require any interference by this Court in the instant appeal.

9. For the foregoing reasons, the appeal filed by the appellant for enhancement of compensation is, therefore, liable to be and is hereby dismissed at the admission stage.

10. No order as to costs.

Sd/-
Gautam Chourdiya
Judge

Akhilesh