

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 687 of 2015**

- Saraswati Bai, W/o Manharan Chandrakar, aged about 45 years, R/o Panchmedhi (Ganiyari), Police Station Bhilai-3, Civil & Revenue District- Durg, (CG).

---- appellant**Versus**

1. Yashwant Kumar Sahu, S/o Shatruhan Sahu, aged about 32 years, R/o Parevadih, Police Station Arjuni, Tahsil Dhamtari, Civil & Revenue District- Dhamtari (C.G.) (Driver of the vehicle).
2. Shyamsundar Agrawal, S/o Mahaveer Prasad Agrawal, R/o Indal Nivas, Ramsagar Para Raipur, Police Station & Post Raipur, Civil & Revenue District- Raipur (C.G.).
3. Divisional Manager, Future Generally India Insurance Company Limited, Shop No. 03, 2nd Floor Maruti Business Park, Dhupad Petrol Pump, G.E. Road, Raipur, Police Station & Post Raipur, Civil & Revenue District- Raipur (C.G.).

---- Respondents

For Appellant	: Shri Kunal Das, Advocate
For Respondent No. 3	: Shri Rohitashav Singh, Advocate

Hon'ble Shri Justice Gautam Chourdiya
Judgment on Board

28.06.2019

1. This appeal under Section 173 of the Motor Vehicle Act has been preferred by the claimant/injured against the award 26.03.2015 passed by Additional Motor Accident Claims Tribunal, (FTC) Dhamtari in Claim Case No. 123/2013 awarding total compensation of Rs.61,066/- along with interest @ 6% per annum from the date of application till realization, fastening liability of payment of compensation upon the non-applicants jointly & severally.

2. As per claim petition, on 19.07.2012, the claimant/injured -Saraswati Bai earning Rs.4,000/- per month by work of sewing & knitting was riding as pillion rider on a motorcycle bearing No. CG 07 LN/5639, when she reached near village-Dahi & Bagdehi, non-applicant No. 1 by rash and negligently driving of offending vehicle (bus) bearing registration No. CG04-E/2132 dashed the aforesaid motorcycle due to which claimant sustained grievous injuries. The vehicle is owned by Non-applicant No. 2 & insured with non-applicant No. 3.

3. On claim petition being preferred by the claimant/injured under Section 166 of the Motor Vehicles Act, 1988, the Tribunal considering the evidence led by both the parties passed an award as mentioned above.

4. No counter appeal has been filed by the respondent/insurance company.

5. Learned counsel for the appellant/claimant submits that though appellant has challenged on many grounds in this appeal, however he is not pressing those grounds and is confining argument only on one ground that the learned Tribunal has not awarded any amount towards loss of earning during the period of treatment, therefore, considering the income of the deceased as Rs. 4,000/- pm as skilled labour the loss of earning for three months be provided to the claimant/injured.

6. 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 matter has rightly awarded compensation, which needs no interference by this Court.

07. Heard learned counsel for the parties and perused the material available on record.

08. Having heard learned counsel for the parties, having gone through their pleading, the evidence, oral and documentary, adduced by them, the medical documents and all relevant aspects of the matter, this Court finds that the learned Tribunal erred in not awarding the loss of earning

to the claimant. At the time of accident the claimant/injured was earning Rs. 4,000/- pm by work of sewing & knitting which is just & proper. However, looking to the injury suffered by the claimant. It would be in the interest of justice to award him three months' loss of income i.e. Rs. 12,000/- during the relevant period.

09. In the result, the appeal is allowed in part. The appellant/claimant is held entitled for additional compensation of Rs. 12,000/- with interest @ 6% per annum from the date of application till realization. The award impugned stands modified to the above extent only. However, rest of the conditions of the award shall remain intact.

Amita

Sd/-
(Gautam Chourdiya)
Judge