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**(2018) 02 CHH CK 0187**

**Chhattisgarh High Court**

**Case No:** Miscellaneous Appeal (C) No. 830 Of 2012

Banwali Ram Sahu

APPELLANT

Vs

Damaru Ram And Ors

RESPONDENT

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**Date of Decision:** Feb. 9, 2018

**Acts Referred:**

- Motor Vehicles Act, 1988 - Section 173

**Hon'ble Judges:** P. Sam Koshy, J

**Bench:** Single Bench

**Advocate:** Jitendra Gupta, Tarkeshwar Nande

**Final Decision:** Allowed/Disposed Of

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### **Judgement**

P. Sam Koshy, J

1. The present appeal under Section 173 of the Motor Vehicles Act has been filed by the claimants seeking enhancement of compensation against the

award dated 05.05.2012 passed by the Motor Accident Claims Tribunal, Rajnandgaon (in short, the Tribunal) in Claim Case No.30/2008. Vide the said

impugned award, the Tribunal has awarded a compensation of Rs.1,14,500/- to the claimants along with interest @ 6 percent per annum from the date

of application.

2. Counsel for the appellants-claimant submits that the amount of compensation awarded by the Tribunal is unreasonably low and the same deserves

to be suitably enhanced. The Tribunal has not properly appreciated the fact that the deceased in the instant case Banwali was died because of the

accidental injury that he sustained on 21.04.2008. He further submits that the Claimants are entitled for entire medical bills which were raised, though

there is no reason assigned by the Tribunal for not awarding the entire medical expenses incurred during the treatment. The deceased died on

24.07.2009 i.e. after about 15 months from the date of accident and during these time he continuously took treatment and had incurred substantial

expense for the same. The Tribunal has also not properly appreciated the income of the deceased who was working as a Peon in the Public Health

Engineering Department of the State Govt. Further, no substantial amount has been awarded under loss of estate and other expenses. Thus, prayed

for amount to be suitably enhanced.

3. The counsel for the insurance company, however opposing the appeal submits that the award seems to be fair and reasonable and there is no scope

of interference. He submits that the claimants have not let evidence to establish the death of the deceased to be directly related to the accidental

injuries and prayed for rejection of the appeal.

4. Considering the submissions put forth on either side and on perusal of records, true it is that the claimants have produced the bills of more than

Rs.1,11,000/- which were marked as Ex. P/5 to Ex. P/200, however no reasons have been assigned by the Tribunal as to why only Rs.75,000/- has

been awarded as a lump sum compensation.

So far as medical expenses are concerned, the claimants have prayed for the actual expenses which have been incurred. There cannot be a lump sum

compensation for the medical expenses incurred. Thus, this court is of the opinion that the claimants would be entitled for an additional amount of

Rs.36,000/- i.e. difference amount of Rs.1,11,000/- and Rs. 75,000/- as awarded by the Tribunal.

5. In addition, this court also awards an additional compensation of Rs.64,000/- under the miscellaneous and other incidental expenses which have

been incurred during the course of treatment of the deceased post accident period till his death. Thus, the claimants would be entitled for a total

compensation of Rs.2,14,500/- instead of Rs.1,14,500/- as awarded by the Tribunal.

6. The above enhanced amount of compensation shall also carry interest at the same rate as awarded by the Tribunal.

7. Accordingly, the appeal of the appellants-claimant stands allowed and disposed of.