

(2018) 02 CHH CK 0305

Chhattisgarh High Court

Case No: Miscellaneous Appeal (C) No. 113 Of 2012

Sukarobai Netam

APPELLANT

Vs

Gopal @ Billu @ Paramjit And
Ors

RESPONDENT

Date of Decision: Feb. 19, 2018

Acts Referred:

- Motor Vehicles Act, 1988 - Section 173

Hon'ble Judges: P. Sam Koshy, J

Bench: Single Bench

Advocate: DN Prajapati, Pankaj Agrawal

Final Decision: Allowed/Disposed Of

Judgement

P. Sam Koshy, J

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

award dated 30.11.2011 passed by the Motor Accident Claims Tribunal, Kanker (in short, the Tribunal) in Claim Case No.92/2010. Vide the impugned

award, the Tribunal in a case of amputation of right leg has awarded compensation of Rs.64,800/- along with interest @ 6 percent per annum from the

date of application.

2. The contention of the appellant is that the compensation awarded by the Tribunal is unreasonably low. The income assessed is on lower side.

Considering the date of accident, the income should had been assessed much more than what has been assessed. He submits that at the relevant point

of time the claimant must have been earning Rs.150-200/- per day which makes monthly income between Rs.4500-6000/-. Further, no sufficient compensation has been awarded for pain and suffering, loss of amenities, incidental expenses and also for fixing artificial limb. Therefore, the amount awarded deserves to be suitably enhanced.

3. The insurance company on the contrary submits that considering the age of the injured at the time of accident, the compensation awarded seems to be fair and reasonable and does not warrant any interference.

4. Having heard the counsel on either side and on perusal of records, what is admitted is the date of accident to be 08.07.2010. What is also not in dispute is the vehicle involved in the accident and the same being duly insured with the respondent No.3-insurance company. Now, what is left to be considered by this court is whether the compensation awarded is fair and reasonable or not?

5. It is anybody's guess that in July, 2010, the average income of even an unskilled labour would be more than Rs.150/- a day and Rs.4500/- per month. Therefore, this court assesses the monthly income of claimant at Rs.4500/- and proceeds to decide the compensation. Considering the fact that it is a case of an amputation of the right leg, even if we take the schedule under the workmen compensation Act, since the nature of injury sustained by the claimant is one which falls under Part-II of Schedule-I of the Workmen Compensation Act where as per entry made at Serial No.21, the percentage of disability for the purpose of assessing loss of earning capacity assessed under the Act itself is 50 percent, this court assesses the loss of earning capacity of the claimant at 50 percent.

6. Assessing Rs.4500/- as monthly income, if 10 percent of the same is added towards future prospects, the amount would come to Rs.4950/- and Rs.59,400/- yearly of which if 50 percent is deducted towards loss of earning capacity, the amount comes to Rs.29,700/- which if multiplied applying the multiplier of 9, the amount reaches to Rs.2,67,300/-. Thus, it is ordered that the claimant is entitled for Rs.2,67,300/- towards loss of earning capacity.

7. In addition, considering the fact that right leg of the claimant had been amputated below the knee, he must have suffered great pain and suffering,

so also mental agony and therefore, this court assesses the compensation towards pain and suffering at Rs.1,00,000/-. So also for loss of amenities this

court assesses Rs.75,000/-. Likewise, the compensation towards affixing of artificial limb also this court assesses the compensation at Rs.1,00,000/-.

In addition, the claimant would be also entitled for an amount of Rs.6600/-towards medical expenses as awarded by the Tribunal. Further, this court

also awards an additional amount of Rs.25,000/- towards future medical expenses and other incidental expenses which the claimant must have

incurred to make the total compensation payable at Rs.5,73,900/- instead of Rs.64,800/- as awarded by the Tribunal.

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

9. Accordingly, the claimant's appeal stands allowed and disposed of.