

1  
IN THE HIGH COURT OF MADHYA PRADESH  
AT JABALPUR

BEFORE  
HON'BLE SHRI JUSTICE VIVEK AGARWAL

ON THE 24<sup>th</sup> OF NOVEMBER, 2022

**MISC. APPEAL No. 186 of 2020**

**BETWEEN:-**

SMT. SHAILJA SINGH W/O SHRI ANIL SINGH  
THAKUR, AGED ABOUT 38 YEARS, H.NO.98  
BHARAT NAGAR J.K. ROAD BHOPAL (MADHYA  
PRADESH)

.....APPELLANT

*(BY SHRI NITIN KUMAR GUPTA, ADVOCATE)*

**AND**

1. MO. IRSHAD ALI SIDDIQUI S/O SHRI MO.  
HADEESH ALI MOODHAPARA DISTT. RAIPUR  
C.G. (CHHATTISGARH)
2. NAGMA FIRDAUR W/O S.M SAHID AHMAD 11/A  
STR 16 BHILAI DURD (CHHATTISGARH)
3. NATIONAL INSURANCE COMPANY LTD.  
THROUGH DIVISIONAL MANAGER DIVISIONAL  
OFFICE NO. 1 71 SEVANI TOWER ZONE NO. 2 MP  
NAGAR (MADHYA PRADESH)

.....RESPONDENTS

*(RESPONDENT NO.3 BY MS.ANJALI BANERJEE, ADVOCATE)*

.....  
*This appeal coming on for admission this day, the court passed the  
following:*

**ORDER**

This Miscellaneous Appeal is filed by the appellant/claimant being aggrieved of award dated 22.10.2019 passed by learned Member, Motor Accident Claims Tribunal, Bhopal in Motor Accident Claim Case No.392/2016 awarding compensation of Rs.7,86,442/-.

Learned counsel for the appellant/claimant submits that the

appellant/claimant lost her one eye in the accident but the Claims Tribunal has only awarded a sum of Rs.7,86,442/- as compensation. A sum of Rs.2,50,000/- is awarded under the head of loss of earning capacity though it has come on record that the appellant/claimant lost her left eye. There is no vision in the left eye due to the accident, which took place on 20.7.2015 when the appellant/claimant was travelling from Vidisha to Bhopal. She sustained injuries in her Jaws, Shoulder, resulting in fracture of Rib, Shoulder and left hand bone, loss of tooth besides the loss of complete vision in the left eye. As per Schedule under the Employee's Compensation Act, 1923, 30% is to be considered for loss of vision of one eye without complication and disfigurement of eyeball, the other being normal and 40% disability is to be considered as per Entry 25 of Schedule-I Part-2 for loss of one eye without complication, the other being normal. The appellant/claimant is wearing an artificial eye as has been certified by the treating doctor vide Exhibit P/8 and, therefore, 40% disability should have been computed on the basis of the Income Tax Return and the award should have been suitably modified for loss of earning capacity inasmuch as with one eye, the appellant/claimant will not be able to render her work of giving tuition etc and there will be reduction in her earning capacity.

Ms.Anjali Banerjee, learned counsel present in Court is requested to accept notice on behalf of respondent No.3/National Insurance Company Limited.

On the request made by this Court Ms.Anjali Banerjee, learned counsel accepts notice on behalf of respondent No.3/National Insurance Company Limited though as per Office Note dated 3.3.2020, the respondent No.3/National Insurance Company Limited appears to have been served but nobody has entered appearance on their behalf.

Ms. Anjali Banerjee, learned counsel supports the impugned award.

The Claims Tribunal has not accepted the Income Tax Return of the appellant/claimant as it is faint and hazy. However, the safest criteria to consider the income of the appellant/claimant will be the minimum wages certified by the Government of Madhya Pradesh under the Minimum Wages Act, 1948 for a Skilled Labourer, which at the time of the accident were to the tune of Rs.8,735/- per month or Rs.1,04,820/- per annum. When 40% of the aforesaid is taken into consideration then it will come out to Rs.41,928/-. Taking into consideration the age of the appellant/claimant to be above 40 years, i.e. around 42 years, 25% is to be added towards future prospect and when multiplier of 14 is applied then the compensation under the head of loss of earning capacity will come out to Rs.7,33,740 against a sum of Rs.2,50,000/- as awarded by the Claims Tribunal. Thus, there will be addition of Rs.4,83,740/- under the head of loss of earning capacity.

The Claims Tribunal has only awarded a sum of Rs.50,000/- under the head of physical pain & mental suffering, which is enhanced to Rs.1,00,000/-. A sum of Rs.1,00,000/- is awarded for disfigurement of face of a young lady and reduction in self esteem. The Claims Tribunal has only awarded Rs.10,000/- under the head of nutritious diet, which is enhanced to Rs.20,000/- at the rate of Rs.5,000/- for a period of four months. The Claims Tribunal has only awarded a sum of Rs.10,000/- under the head of attendant, which is enhanced to Rs.20,000/- at the rate of Rs.5,000/- for a period of four months. Thus, the appellant/claimant will be entitled to an enhanced sum of Rs.6,53,740/- (Rs. Six Lakh Fifty Three Thousand Seven Hundred Forty Only) in addition to the amount awarded by the Claims Tribunal alongwith interest @

6% per annum from the date of filing of the claim petition till the date of actual payment. The other terms & conditions of the award shall remain intact.

In above terms, this Miscellaneous Appeal is disposed of.

Let record of the Claims Tribunal be sent back.

**(VIVEK AGARWAL)**  
**JUDGE**

amit

