



CGHC010008882021

2026:CGHC:43891

**NAFR****HIGH COURT OF CHHATTISGARH AT BILASPUR****MAC No. 41 of 2021**

Sanjay Gupta S/o Ravindra Gupta Aged About 30 Years Occupation – Conductor, R/o Village Bagicha, Tahsil Bagicha, District Jashpur, Chhattisgarh.

**... Appellant.****versus**

**1** - Ashok Kumar Lakra S/o Mukund Ram Aged About 25 Years Caste - Uraon, R/o Village - Tedga, Post Bilaspur, Police Station Batauli, District Surguja, Chhattisgarh.

**2** - Shivnarayan Gupta S/o Nanku Sao R/o Village Kharkona, Post Bargidih, District Surguja, Chhattisgarh.

**3** - The New India Insurance Company Limited Divisional Office Sada Complex, Transport Nagar, Korba, District Korba, Chhattisgarh.

**... Respondent(s)**

| The date which the case is reserved for order | The date when Judgment is pronounced | The date when the Judgment is uploaded |
|-----------------------------------------------|--------------------------------------|----------------------------------------|
| 25-09-2026                                    | 09.10.2026                           | 12.10.2026                             |

|                                          |                                                                      |
|------------------------------------------|----------------------------------------------------------------------|
| For Appellant-Claimant                   | Mr. Sanjeev Kumar Sahu, Advocate                                     |
| For Respondent No.1 & 2/Driver and Owner | Mr. Hariom Rai, Advocate.                                            |
| For Respondent No.3.                     | Ms. Pooja Yadav, Advocate on behalf of Mr. Shivendu Pandya, Advocate |

**Hon'ble Shri Santosh Sharma, Judge****C A V Judgment**

1. This appeal under Section 173 of the Motor Vehicles Act, 1988 has been preferred by the appellant/claimant seeking enhancement of the amount of compensation, challenging the legality and validity of the impugned award dated 16.05.2019 passed by the Motor Accident Claims Tribunal, Jashpur, C.G (in short 'the Tribunal') in Claim Case No.76/2017, whereby the Tribunal has awarded total compensation of Rs.1,84,026/- to the appellant-claimant.
2. Relevant facts for disposal of this appeal are that on 04.02.2015, appellant was travelling from Village Kunkuri to his home at Village Bagicha in Bus bearing registration No.CG-15-A-7364 (for short, 'offending vehicle'). On the way, near village -Raikera, Tetuaatanger (Police Station Bagicha), respondent No.1/driver of offending vehicle, drove the said vehicle (bus) at a high speed in a rash and negligent manner, resulting in an accident, due to which, one girl died and several persons sustained injuries. Appellant has also sustained injuries to his left waist and other parts of his body. Accident was reported to the concerned Police Station, based on which, FIR was registered against the accused person.
3. Appellant has filed a claim application/petition before the Tribunal claiming a total compensation of Rs.7,37,970/- under various heads stating that at the time of the alleged accident, appellant was a healthy person aged about 30 years and was earning Rs.500/- per day by working as a conductor.

4. Non-applicant Nos.1 to 3/driver, owner and insurer of offending vehicle (respondent No.1 to 3 herein) filed reply to the claim application and denied the adverse averments made therein.
5. After considering the pleadings and evidence adduced by the respective parties, the learned Tribunal awarded a total sum of Rs.1,84,026/- as compensation to the claimant.
6. Learned counsel for the appellant submits that the Tribunal has committed an arithmetical error in computing the aggregate amount of compensation as the amount awarded under the respective heads cumulatively amount to Rs.2,21,026/-, however, the Tribunal erroneously recorded the total compensation as Rs.1,84,026/-. Though the Tribunal has assessed the period during which appellant remained unable to pursue his occupation at three months, but considering his monthly income at Rs.6,000/- has awarded only Rs. 12,000/- towards loss of income, which ought to be calculated at Rs. 18,000/- ( $\text{Rs.6,000} \times 3$ ). Learned Counsel further submits that the Tribunal has failed to appreciate that, on account of the accident, the appellant sustained a fracture in the middle portion of his waist/pelvic region, for which, a steel rod was inserted during course of treatment. As a consequence of injuries sustained in the accident, appellant has suffered permanent disability. The Tribunal failed to properly consider the disability certificate placed on record, which establishes that the appellant has suffered 10% disability. Following the accident, appellant underwent treatment at the Community Health Centre, Bagicha and, thereafter, at Holy Cross Hospital, Ambikapur. On the advice of the

treating doctors, he was also required to undergo further treatment at Ranchi. Despite undergoing treatment at different medical centres, the appellant has not completely recover and continues to suffer from persistent pain in the muscles and joints of his body. His physical condition has consequently affected his ability to carry out his normal activities and earn his livelihood. The appellant is also required to undergo further medical treatment in future and is likely to incur substantial expenses in this regard. As such, the Tribunal has failed to properly assess the medical expenses, nature and extent of injuries, permanent disability, loss of earning capacity and future medical treatment. Further, the amount awarded towards transportation, special diet, attendant, pain and mental agony are also on lower side. The Tribunal ought to have awarded interest @ 12% instead of 9% per annum. As such, appeal may be allowed and amount of compensation be enhanced suitably.

7. Per contra, learned counsel for respondent Nos.1 & 2/driver and owner of offending, submits that although the appellant claimed that he remained admitted in the hospital for about one month and was unable to pursue his occupation for about three months on account of the treatment, but available medical record indicates that the appellant was admitted only for about five days, i.e. from 04.02.2015 to 09.02.2015. He further submits that in the impugned award, though it is mentioned that appellant remained under treatment for approximately one month, but there is no finding that he remained continuously hospitalized or admitted in the hospital throughout the

said period. In his pleadings, although the appellant claimed that he was earning Rs.500/- per day by working as a conductor at the time of the accident, but he failed to produce any documentary evidence in support of his occupation or income. Upon due appreciation of the oral and documentary evidence available on record, the Tribunal has rightly assessed and awarded the compensation, which does not warrant any interference.

8. Learned counsel appearing for respondent No.3/Insurance Company, while opposing the submissions advanced on behalf of the appellant, submits that Dr. Anuranjan Toppo was examined on behalf of the appellant as AW-2 and stated that he was a member of the District Medical Board. He deposed that the Medical Board had assessed the appellant as having 10% disability, but such disability was assessed only for a period of three months. In his cross-examination, he admitted that the appellant was expected to recover naturally within the said period of three months. It is, therefore, contended that the appellant cannot be said to have suffered permanent disability. Learned counsel further submits that the appellant was admitted in the hospital only for about five days. It is contended that, upon proper appreciation of the evidence available on record, the Tribunal has rightly awarded the compensation and no interference is warranted.
9. Heard learned counsel for the parties and perused the records with utmost circumspection.

10. Perusal of the impugned award reveals that the learned Tribunal has committed an apparent arithmetical error in computing the aggregate amount of compensation. The amounts awarded under the respective heads, namely, medical expenses, transportation charges, attendant charges, loss of income during the period of treatment, special diet, and pain and mental agony, cumulatively amount to Rs.2,21,026/-. However, while aggregating the said amount, the learned Tribunal erroneously recorded the total compensation as Rs.1,84,026/-, instead of Rs.2,21,026/-.
11. On perusal of impugned award, it appears that the Tribunal has assessed monthly income of appellant at Rs.6,000/- per month and determined the period during which appellant remained unable to pursue his occupation at three months, but erroneously calculated loss of income for three months at Rs.12,000/-, which ought to be awarded Rs.18,000/- (Rs. 6,000 × 3). Hence, same is required to be corrected.
12. So far as contention of learned counsel for appellant that the Tribunal has failed to consider the disability certificate (Ex. A/72), wherein the appellant was assessed to have suffered 10% disability and lost earning capacity and unable to do any physical activity/work is concerned. Perusal of the impugned award reveals that no observation has been made by the Tribunal in respect of said disability certificate. Hence, it is necessary to examine the evidence available on record in this regard. Dr. Anuranjan Toppo, who is a member of District Medical Board was examined as AW- 2 and he stated in his evidence that the Medical Board had assessed the appellant as having

10% disability, but such disability was assessed only for a period of three months. In his cross-examination, he admitted it correct to state that the percentage of disability mentioned in the aforesaid disability certificate is 10%, which may, in the ordinary course, resolve within a period of three months; he further admitted that after issuance of the aforesaid disability certificate, the injured/Sanjay Kumar Gupta (appellant) has not approached him for any medical treatment till date. He further stated that it is correct to state that the aforesaid injured person was neither examined nor treated by him at any time prior to or subsequent to the issuance of the aforesaid disability certificate.

13. In view of evidence of Dr. Anuranjan Toppo (AW- 2), it is evident that the disability assessed by the District Medical Board was temporary in nature and expected to resolve within a period of three months. The evidence on record, therefore, does not establish that the appellant suffered any permanent disability as a consequence of the injuries sustained in the accident. Mere assessment of 10% physical disability, in the absence of evidence establishing its permanency and its consequential impact upon the earning capacity of the appellant, cannot by itself be made the basis for awarding compensation towards loss of future earning capacity.

14. While considering the issue of assessment of compensation on account of disability, the Hon'ble Apex Court in case of **Raj Kumar v. Ajay Kumar & Anr.**, reported in (2011) 1 SCC 343, has observed as under:

**“8.** Disability refers to any restriction or lack of ability to perform an activity in the manner considered normal for a human being. Permanent disability refers to the residuary incapacity or loss of use of some part of the body, found existing at the end of the period of treatment and recuperation, after achieving the maximum bodily improvement or recovery which is likely to remain for the remainder life of the injured. Temporary disability refers to the incapacity or loss of use of some part of the body on account of the injury, which will cease to exist at the end of the period of treatment and recuperation. Permanent disability can be either partial or total. Partial permanent disability refers to a person's inability to perform all the duties and bodily functions that he could perform before the accident, though he is able to perform some of them and is still able to engage in some gainful activity. Total permanent disability refers to a person's inability to perform any avocation or employment related activities as a result of the accident. The permanent disabilities that may arise from motor accident injuries, are of a much wider range when compared to the physical disabilities which are enumerated in the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 ("the Disabilities Act", for short). But if any of the disabilities enumerated in Section 2(i) of the Disabilities Act are the result of injuries sustained in a motor accident, they can be permanent disabilities for the purpose of claiming compensation.

**9.** The percentage of permanent disability is expressed by the Doctors with reference to the whole body, or more often than not, with reference to a particular limb. When a

disability certificate states that the injured has suffered permanent disability to an extent of 45% of the left lower limb, it is not the same as 45% permanent disability with reference to the whole body. The extent of disability of a limb (or part of the body) expressed in terms of a percentage of the total functions of that limb, obviously cannot be assumed to be the extent of disability of the whole body. If there is 60% permanent disability of the right hand and 80% permanent disability of left leg, it does not mean that the extent of permanent disability with reference to the whole body is 140% (that is 80% plus 60%). If different parts of the body have suffered different percentages of disabilities, the sum total thereof expressed in terms of the permanent disability with reference to the whole body, cannot obviously exceed 100%.

15. Tested on the touchstone of the aforesaid principles, the appellant has failed to establish that the disability sustained by him in the alleged accident was permanent in nature or the same resulted in any permanent diminution of his earning capacity. As such, compensation cannot be granted under the head of loss of future earning.
16. As regard that due to the injury/disability, appellant is required future medical treatment is concerned. Learned counsel for the appellant has submitted that due to the accident, middle waist bone of appellant was broken and during treatment the concerned doctor inserted steel rod and further surgical intervention would be required for their removal. However, except for the aforesaid medical evidence, no specific estimate, prescription, medical advice or other cogent documentary evidence has been brought on record to establish the necessity and

probable cost of such future treatment. It is well settled that compensation towards future medical expenses can be awarded where the necessity of future treatment and the expenditure likely to be incurred are established by reliable medical evidence. In the present case, although the possibility of further surgical intervention has been stated, but the evidence available on record does not disclose any definite estimate of the expenses likely to be incurred in such treatment. In the absence of any reliable material quantifying the probable future medical expenditure, this Court is not inclined to award any specific amount under the head of future medical expenses.

17. In view of the foregoing discussion and observations, this Court finds no reason to interfere with the findings of the Tribunal with regard to the compensation awarded towards medical expenses, transportation, pain and agony. However, having regard to the nature and extent of the injuries sustained by the appellant and treatment undergone, this Court is of the considered view that the amount awarded under the heads of special diet and attendant expenses warrants enhancement.

18. Accordingly, this Court proceeds to re-compute the award of compensation as under : -

| <b>Sr. No.</b> | <b>Heads</b>             | <b>Compensation awarded by the Tribunal</b> | <b>Compensation awarded by this Court</b> |
|----------------|--------------------------|---------------------------------------------|-------------------------------------------|
| 1              | Income                   | Rs.6.000/- per month                        | Rs.6,000/- per month                      |
| 2.             | Towards medical expenses | Rs.1,64,026/-                               | Rs.1,64,026/-                             |

|    |                                                          |                                                                               |                          |
|----|----------------------------------------------------------|-------------------------------------------------------------------------------|--------------------------|
| 3. | For transportation                                       | Rs.10,000/-                                                                   | Rs.10,000/-              |
| 4. | For Special diet                                         | Rs.5,000/-                                                                    | Rs.20,000/-              |
| 5. | For attendant                                            | Rs.10,000/-                                                                   | Rs.20,000/-              |
| 5. | Towards loss of income of three months during treatment. | Rs.12,000/-                                                                   | Rs.18,000/- (6,000 X 3). |
| 6. | For pain and mental agony                                | Rs.20,000/-                                                                   | Rs.20,000/-              |
|    | <b>Total</b>                                             | <b>Rs.2,21,026/-</b><br>(wrongly calculated by the Tribunal as Rs.1,84,026/-) | <b>Rs.2,52,026/-</b>     |

19. Now, the appellant/claimant is entitled to get compensation of **Rs.2,52,026/-** instead of **Rs.2,21,026/-** (wrongly calculated by the Tribunal as Rs.1,84,026/-). The additional amount of compensation shall carry interest at the rate as awarded by the Tribunal. Rest of the conditions of the impugned award shall remain intact.

20. In the result, the appeal is **partly allowed** and the impugned award is modified to the extent as indicated herein-above.

**Sd/-**  
**(Santosh Sharma)**  
Judge

J/-