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CGHC010281472020

2026:CGHC:31046

NAFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****MAC No. 52 of 2021**

Neelu Sahu S/o Brijlal Sahu Aged About 45 Years R/o Behind Shiv
Nagar Police Chowki, Pandri Raipur, District Raipur Chhattisgarh.
(Claimant), District : Raipur, Chhattisgarh

... Appellant**versus**

1 - Roshan Nirmalkar S/o Indraman Nirmalkar Aged About 25 Years
R/o Village Khouli, Police Station Kharora, District Raipur
Chhattisgarh. (Driver And Registered Owner Of Vehicle Motor Cycle
Bearing Registration No. C.G. 04-Hp-7179)., District : Raipur,
Chhattisgarh

2 - The I.C.I.C.I. Lombard Insurance Company Limited Through
Divisional Manager, Divisional Office Vanijiya Bhawan, Devendra
Nagar, Raipur, District Raipur, Chhattisgarh. (Insurer Of Vehicle
Motor Cycle Bearing Registration No. C.G. -04-Hp-7179)., District :
Raipur, Chhattisgarh

--- Respondent(s)

For Appellants	:	Ms. Pooja Yadav, Advocate on behalf of Mr. Shivendu Pandya, Advocate
For Respondent No.1	:	Mr. C.R. Sahu, Advocate
For Respondents No.2	:	Mr. Tessey Abraham, Advocate

Hon'ble Shri Justice Sanjay Kumar Jaiswal
Judgment on Board
(21.07.2026)

1. This appeal under Section 173 of the Motor Vehicles Act, 1988 (for short the "Act of 1988") has been preferred by the appellant/claimant seeking enhancement of the amount of compensation, challenging the impugned award dated 31.01.2020, passed in Claim Case No.593/2016, whereby the learned Claims Tribunal has awarded a total sum of Rs.60,000/- for the injuries sustained by Neelu Sahu in a road accident which took place on 28.05.2015.
2. Learned counsel for the appellant would submit that the learned Claims Tribunal has erred in awarding lesser amount of compensation. Further, the amounts awarded under the heads of loss of income, pain & suffering, transportation etc. are highly inadequate and need to be enhanced. Therefore, the instant appeal be allowed and the compensation awarded by the Claims Tribunal may suitably be enhanced. Further, though there was a breach of insurance policy conditions but, at the time of accident, the vehicle was insured, therefore, an order of pay and recover may be passed.
3. Learned counsel for respondent No.1 would submit that the Claims Tribunal after appreciating oral and documentary evidence available on record rightly awarded the compensation amount. Hence, the compensation awarded by the Claims Tribunal is just and proper and requires no interference.
4. Learned counsel for respondent No.2 would submit that there was a breach of insurance policy and the Claims Tribunal has exonerated the insurance company to pay the

compensation.

5. I have heard learned counsel for the parties, considered their rival submissions made herein-above and went through the records with utmost circumspection.
6. The accident took place on 28.05.2015. The Appellant sustained fracture in right leg and remained hospitalized for 4 days. The Claims Tribunal after appreciation of oral and documentary evidence available on record awarded total Rs.60,000/- in favour of the Appellant. The Claims Tribunal has not found any permanent disability. Towards loss of income, the Tribunal has awarded Rs.14,000/- and towards pain and suffering, inconvenience and nutritious diet, the Tribunal has awarded Rs.10,000/- which are on lower side. Considering the nature of injuries, period of hospitalization and treatment, the compensation deserves to be re-computed as under:

Sr. No.	Heads	Compensation awarded by the Tribunal	Compensation awarded by this Court
1	Medical Expenses	Rs. 36,000/-	Rs. 36,000/-
2.	Loss of income	Rs.14,000/-	Rs.18,000/-
3.	Pain and Suffering, nutritious diet, transportation and for attendant	Rs. 10,000/-	Rs. 20,000/-
		Rs. 60,000/-	Rs. 74,000/-

7. In view of the aforesaid analysis, the amount of compensation of Rs.60,000/- awarded by the Claims Tribunal is enhanced to Rs.74,000/-. Hence, the appellant is held entitled for an additional amount of Rs.14,000/-. The additional amount of compensation shall carry interest

@ 6% per annum from the date of filing of the claim application before the Claims Tribunal till its realization. Rest of the conditions of the impugned award shall remain intact.

8. The Claims Tribunal found a breach of the policy conditions inasmuch as, at the time of the accident, driver Roshan Nirmalkar did not possess a valid and effective driving licence. However, the Tribunal did not pass an order for “pay and recover” as prayed for by the appellant/claimant before this Court. In view of the above, and applying the ratio of law laid down by the Hon’ble Supreme Court in the case of **Manuara Khatun and Others Vs. Rajesh Kumar Singh and Others**, reported in **(2017) 4 SCC 796**, I direct Respondent No.2/Insurance Company to first pay the amount of compensation and thereafter recover the same from the owner/driver by filing an execution petition before the concerned Claims Tribunal.
9. In the result, the appeal is **partly allowed** and the impugned award is modified to the extent as indicated herein-above.
10. The Registry is directed to communicate the claimant in writing “the enhanced amount” in this appeal as against the award made by the concerned Tribunal. The said communication be made in Hindi Deonagri language and the help of paralegal workers may be availed with a co-ordination of Secretary, Legal Aid of the concerned area wherein the claimant resides.

Sd/-
(Sanjay Kumar Jaiswal)
Judge