



CGHC010298012021



2026:CGHC:41815

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 691 of 2021

Dheeraj Agrawal S/o Savarmal Agrawal Aged About 30 Years R/o Mahuapali Road, Kharsia, Tehsil - Kharsia, District - Raigarh. Chhattisgarh. (Claimant).

... Appellant.

versus

1 - Balbeer Singh S/o Maharaj Singh Choudhary Aged About 51 Years R/o Village- Barvar Post Luhara, Thana And Tehsil - Nandwain, District- Bharatpur, Rajastan. (Driver)

2 - Sonu Goyal S/o Rajendra Prasad Agrawal Aged About 32 Years R/o E-23, Kamal Bihar, Ajmer Road, Jaipur, District - Jaipur Rajasthan. (Owner).

3 - The New India Insurance Company Company, Bima Office Transport Nagar, Jaipur Rajasthan.

... Respondent(s)

The date which the case is reserved for order	The date when Judgment is pronounced	The date when the Judgment is uploaded
16-09-2026	25.09.2026	28.09.2026

For Appellant	Mr. Ankit Singhal, Advocate
For Respondent No.1	None
For Respondent No.3	Ms. Swati Agrawal, Advocate on behalf of Mr. Pankaj Agrawal, 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 15.09.2021 passed by the Motor Accident Claims Tribunal, Raigarh, C.G (in short 'the Tribunal') in Claim Case No.56/2019, whereby the Tribunal has awarded a total sum of Rs.09,86,308/- as compensation in injury case.
2. Relevant facts for disposal of this appeal are that on 02.09.2018, the appellant was proceeding from Kharsia towards Aidu, Chhal on his motorcycle bearing Registration No. CG-13-V-8965; when he reached near the petrol pump situated at Village :Dehjari, respondent No.1, while driving Trailer bearing registration No.RJ-26-GB-2009, owned by respondent No. 2 (hereinafter referred to as “the offending vehicle”), at a high speed and in a rash and negligent manner, dashed against the motorcycle of the appellant. As a result of said accident, the appellant sustained grievous injuries in both of his legs and was immediately taken to the hospital at Kharsia for treatment. Thereafter, appellant has taken treatment at O.P. Jindal Hospital, Dr. R.L. Hospital, Raigarh, V.Y. Hospital, Raipur, Khanduja Hospital, Bilaspur, Dr. Saurabh Agrawal at Kharsia and Dr. P.K. Chauhan at Pathalgaon. His treatment is continuing even at present. Accident was reported to the concerned Police Station, based upon which, a criminal case was registered against respondent No.1/driver of offending vehicle.

3. Appellant filed a claim application/petition before the Tribunal claiming a total compensation of Rs.1,16,06,615/- under various heads stating that at the time of the alleged accident, he was aged 28 years and was earning Rs.40,000/- per month from his business. However, due to the grievous injuries sustained in the aforesaid accident, he has suffered permanent disability and thereby sustained irreparable loss.
4. Non-applicant Nos.1 to 3/driver, owner and insurer of offending vehicle (respondent Nos.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 Tribunal awarded a total sum of Rs.09,86,308/- as compensation alongwith interest at the rate of 7.5% per annum from the date of filing of the claim application till its actual payment.
6. Learned counsel for the appellant submits that the Tribunal has erred in awarding an inadequate amount of compensation to the appellant-claimant. The Tribunal has committed a serious error in assessing annual income of appellant at only Rs. 84,000/-, which ought to have assessed on the basis of Income Tax Return for the Assessment Year 2017-18; copy of income tax return was produced before the Tribunal which discloses a gross total income exceeding Rs.4,50,000/- per annum. Learned Counsel further submits that the Tribunal has failed to properly appreciate the evidence of Dr. Prashant Agrawal, who categorically stated that the appellant had undergone two surgeries in which an iron rod and plates were inserted in his body and further

surgical procedure would be required for their removal, therefore, the Tribunal erred in rejecting the appellant's claim towards future medical expenses likely to be incurred for his continued treatment. The Tribunal has wrongly assessed the appellant's permanent disability at 25%, whereas the disability certificate issued by the District Disability Board records his disability at 45%; the disability of appellant is permanent in nature and cannot be completely cured. Learned Counsel further submits that as a consequence of the injuries and permanent disability sustained in the accident, the appellant's business and earning capacity have been adversely affected. Owing to his disability, appellant is no longer capable of driving a vehicle as he was able to do prior to the accident, thereby substantially affecting his future earning capacity. Learned Counsel further submits that the appellant had produced the original medical bills evidencing the expenses incurred during the course of his treatment, but the Tribunal, without assigning any sufficient or cogent reason, failed to take the said bills into consideration. The appellant was only 28 years of age at the time of the accident and has been compelled to live the remainder of his life with permanent disability. Owing to the disability suffered by appellant, his matrimonial engagement was also broken and he is facing difficulty in finding a suitable matrimonial partner. The appellant is unable to lead his life in the same manner as he was leading it prior to the accident. The appellant continues to undergo medical treatment for the injuries sustained in the accident and he seeks leave of this Court to produce the additional documents relating to his further

medical treatment at the appropriate stage. Learned Counsel further submits that the Tribunal has erred in awarding interest at the rate of only 7.5% per annum from the date of filing of the claim application. On above these grounds, the appeal be allowed and the compensation awarded by the Tribunal be suitably enhanced. In support of his submissions, learned counsel places reliance upon the judgments/decisions of the Hon'ble Supreme Court in case of *Malarvizhi & Ors. v. United India Insurance Company Limited & Anr.*, reported in (2020) 4 SCC 228; *Jithendran v. New India Assurance Company Limited*, Civil Appeal No.6494 of 2021, decided on 27.10.2021 and *R.D. Hattangadi v. Pest Control (India) (P) Ltd.*, reported in (1995) 1 SCC 551.

7. Per contra, learned counsel appearing for respondent No.3/Insurance Company opposes the submissions advanced on behalf of the appellant and submits that the Tribunal, upon due appreciation of the oral and documentary evidence available on record, has rightly determined and awarded compensation to the appellant-claimant. The compensation awarded by the Tribunal is just, reasonable and commensurate with the evidence on record and does not warrant any interference by this Court. As such, appeal deserves to be dismissed.
8. I have heard learned counsel for the parties, considered their rival submissions made herein-above and went through the records with utmost circumspection.

9. So far as submission with regard to the extent of disability of the appellant is concerned, although the appellant has claimed that, owing to the disability sustained in the accident, he is no longer in a position to carry on the work/business which he was doing prior to the accident. However, Dr. R.K. Gupta (AW-2), who was a member of the District Medical Board which had issued the disability certificate, has not stated in his deposition that the appellant is incapable of performing any kind of physical work on account of the disability. Perusal of the record reveals that the disability certificate issued by the District Disability Board assessed the appellant's physical disability at 45%. However, percentage of physical disability cannot, by itself, be equated with the percentage of functional disability for the purpose of determining loss of future earning capacity. The nature of the injuries sustained, the medical evidence on record, the fact that the injuries are permanent or temporary in nature and the impact thereof on his day-to-day activities and earning capacity are relevant factors which are required to be duly considered. It is also evident from the record that the disability certificate (Ex.A-223) was issued for a period of only two years and no subsequent evidence has been brought on record to establish the continuing nature or extent of the disability suffered by the appellant. Considering the overall facts and circumstances of the case, evidence available on record and nature of occupation of appellant, this Court is of the considered opinion that the learned Tribunal was justified in assessing the disability of the appellant at 25% for the whole body.

10. As regards the contention that the income of the appellant has been assessed on the lower side at Rs.84,000/- per annum is concerned, learned counsel for the appellant contended that, as reflected from the Income Tax Returns (Ex.A-166 and Ex.A-167), the appellant had earned Rs.4,71,590/- per annum and, therefore, said income ought to have been taken into consideration for the purpose of computation of compensation. Reliance has also been placed upon the judgments referred to hereinabove, wherein Income Tax Returns were taken into consideration for determination of income. A perusal of the impugned award reveals that, while considering the issue relating to income of the appellant, the learned Tribunal noticed that the appellant had produced only one year's Income Tax Return, i.e. for the Assessment Year 2017-18 and had not produced any other material or documentary evidence establishing the nature of his occupation, business or actual income.
11. In these circumstances, the learned Tribunal declined to rely solely upon the Income Tax Return for the year 2017-18 and assessed income of the appellant as Rs.7,000/- per month on notional basis. It is further reflected from the statement of the appellant that he had not produced the Income Tax Returns for the subsequent years, ie, 2018-19, 2019-20 and 2020-21 nor he had furnished any satisfactory explanation for non-production of the said documents. In view of the aforesaid circumstances, this Court is of the considered view that the appellant ought to have produced the Income Tax Returns for the subsequent financial years alongwith other relevant material relating to

the nature of his occupation, business and income, as such, documents would have been material for determining his actual income and consequent loss of earning capacity. In the absence of such supporting documentary evidence, it would be difficult to determine the actual income of the appellant with reasonable certainty. Furthermore, the appellant has failed to satisfactorily establish that he had maintained the relevant records or documents pertaining to his profession/business which could substantiate his alleged income. Having regard to the totality of the facts and circumstances of the case, this Court finds no infirmity in the approach adopted by the learned Tribunal in assessing the income of the appellant at Rs.7,000/- per month on a notional basis.

12. So far as claim towards future medical expenses is concerned, learned counsel for the appellant has submitted that, as per the evidence of treating Doctors, the appellant had undergone two surgeries during which an iron rod and plates were inserted 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.

13. Upon due consideration of the entire evidence/material available on record, this Court finds that the learned Tribunal has rightly assessed the income of the appellant and has accordingly awarded compensation under the heads of medical expenses and loss of earning capacity arising from the disability suffered by the appellant. However, having regard to the duration of treatment, nature and extent of the injuries sustained by the appellant, this Court is of the considered view that the compensation awarded under the heads of physical and mental agony, transportation expenses and special diet is inadequate and needs to be enhanced.

14. Accordingly, the compensation awarded under the aforesaid heads is enhanced as follows: -

Sr. No.	Heads	Compensation awarded by the Tribunal	Compensation awarded by this Court
	Income	Rs.7,000/-	Rs.7,000/- per month Rs.84,000/- per annum.
	For medical expenses	Rs.3,16,508/-	Rs. 3,16,508/-
	For physical & mental agony	Rs.1,00,000/-	Rs.1,50,000/-

	For loss of earning capacity on account of permanent disability	Rs.4,99,800/-	Rs.4,99,800/-
	For expenses towards transportation & attendant	Rs.50,000/-	Rs. 75,000/-
	For special diet	Rs.20,000/-	Rs.45,000/-
	Total	Rs. 09,86,308/-	Rs.10,86,308/-

15. Now, the appellant/claimant is entitled to get compensation of Rs.10,86,308/- instead of Rs.09,86,308/- as awarded by the Tribunal. The additional amount of compensation shall carry interest at the rate of 7.5% per annum from the date of filing of the claim application till its realization. Rest of the conditions of the impugned award shall remain intact.

16. 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/-