

HIGH COURT OF CHHATTISGARH, BILASPUR

MAC No. 1447 of 2008

1. Dharamveer Narang S/o Late Laluram Narang, aged about 30 years, Caste Satnami R/o Village-Sankra, PO Sondra, Ps Dharsiwa, Raipur (CG)

---- Appellant

Versus

1. Vinod Kumar Sharma, S/o Ramraspal Sharma, aged about 41 years, R/o Village Naraina, P.S. Bharsar, District Hamirpur (Himachal Pradesh)
3. Minakshi Jaggi D/o Sk Jaggi R/o 2/21 Punjabi Colony, Katora Talab, Raipur, Tahsil and District Raipur (CG)
4. Divisional Manager New India Insurance Co. Ltd. Divisional Office No.1, Raipur.

---- Respondents

For Appellant:	Shri Amiyakan Tiwari, Advocate
For Respondents No.1 & 2:	None
For Respondent No.3:	Shri Qamrul Aziz, Advocate

Hon'ble Shri Justice Pritinker Diwaker

Order

30/06/2016

1. This appeal filed by the claimant/appellant arises out of the award dated 30.7.2008 passed by the 3rd Additional Motor Accident Claims Tribunal, Raipur (henceforth 'the Claims Tribunal') in Claim Case No.31/05 whereby in an injury case compensation of Rs.84,268/- has been awarded to the claimant.
2. Facts of the case, in brief, are that on 16.2.2005 the claimant was going on his motorcycle to village Sankra from Bhanpuri-Raipur and when he reached near Dhaneli nala, he was hit by the vehicle bearing registration No.CG04-G-7531, which was driven by respondent No.1 in a rash and negligent manner, as a result of which he sustained number of grievous

injuries including fracture in right hand.

3. A claim case was filed by the injured claimant/appellant claiming compensation to the tune of Rs.8,00,000/- under various heads including, *inter alia*, pleading that after the incident he was taken to the Primary Health Centre, Dharsiva from where he was referred to Medical College Hospital, Raipur for better treatment where he remained admitted from 16.2.2005 to 4.3.2005 and during this period i.e. on 17.2.2005, a rod was inserted in his right hand. It has been further pleaded that at the time of incident, he was earning Rs.150/- per day, however, on account of injuries caused in the accident, he could not perform his work for months' together. It has also been pleaded that in future also he need medical treatment.
4. The respondents No.1 & 2 remained ex-parte before the Claims Tribunal. Respondent No.3 by filing written statement contested the case on the ground that respondent No.1 herein was not having valid & effective license to drive the vehicle in question and therefore the insurance company is not liable for making payment of compensation to the claimant.
5. By the impugned award, the Claims Tribunal has awarded compensation of Rs.84,268/- with interest @ 6% p.a. to the claimant/appellant. It is this award which has been challenged by the claimant in this appeal for enhancement.
6. Counsel for the appellant submits that;-
 - the Claims Tribunal has erred in law in awarding very negligible compensation for the grievous injuries sustained by the claimant.
 - the Claims Tribunal has not considered the important aspect of the

case that in future also the appellant had to undergo surgery for removing the rod inserted in his hand.

- under the conventional heads like pain & suffering, transportation, future medical expenses etc., the Claims Tribunal has not awarded any compensation.

7. On the other hand, it has been argued on behalf of the counsel for respondent No.3 that in the facts and circumstances of case, the compensation awarded by the Claims Tribunal is just and proper and requires no further enhancement.
8. Heard counsel for the parties and perused the material available on record.
9. The claimant had examined himself as AW-1 and described as to the manner in which the accident had taken place. He has stated that he suffered number of injuries, for which he was hospitalized for quite some time.
10. Dr. G.S. Bachchu (AW-2) has stated that in the accident the claimant has suffered number of injuries including fracture of right frontal bone.
11. Considering the fact that the claimant/appellant remained hospitalized for more than 20 days where a rod was inserted in his right hand and further considering that in future also he would be required to undergo surgery for removal of said rod, it is apparent that the claimant would have suffered much pain and agony and would also be required to incur expenses in future treatment. Thus, keeping in view all these things, this Court is of the view that the amount awarded by the Claims Tribunal is on lower side and requires reconsideration. The claimant/appellant is entitled for compensation in the following manner;-

Heads	Amount Awarded
For Medical Expenses :	Rs.77,768/- (Maintained)
For Pain & Suffering :	Rs.20,000/-
For grievous injuries :	Rs.25,000/-
For future treatment :	Rs.7,000/-
For Transportation :	Rs.5,000/-
For loss of income :	Rs.5,000/-
For Nutrition Diet :	Rs.5,000/-
Total	Rs.1,44,768/-

12. On the basis of aforesaid discussions, the claimant/appellant is held entitled for a total compensation of Rs.1,44,768/- and since the Claims Tribunal has already awarded Rs.84,268/-, after the deducting the same the claimant/appellant is entitled for enhanced amount of Rs.60,500/-. This additional amount of compensation shall carry interest @ 7.5% p.a. from the date of filing of claim application till realization.

13. In the result, the appeal is allowed in part and the award impugned stands modified to the extent indicated above.

Sd/-
(Pritinker Diwaker)
Judge

roshan