

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.A.(C) No. 219 of 2010**

Narayan S/o Govind Sahu, R/o Thekwadih, Police Station & Tahsil
-Gurur, District Durg (CG)

---- Appellant**Versus**

1. Smt Rukhmani Bai W/o Punaram Sahu, R/o Thekwadih, Police Station & Tahsil Gurur, District Durg (CG)
2. Uttam Sahu @ Punrotram S/o Narayan Sahu, R/o Thekwadih, Police Station & Tahsil -Gurur, District Durg (CG)

---- Respondents

For Appellant : Shri Goutam Khetrapal, Advocates

Hon'ble Shri Justice P. Sam Koshy**Order On Board****09/09/2016**

The instant appeal has been preferred by the owner of the offending vehicle under Section 173 of the Motor Vehicles Act challenging the judgment/award dated 10.12.2009 passed by the Additional Motor Accident Claims Tribunal (FTC), Balod, District Durg in Claim Case No. 25/2009.

2. Facts in brief are that the claimant/respondent no.1 had filed a claim application under Section 166 of the Motor Vehicle Act before the Claims Tribunal claiming compensation of Rs.3,30,000/- for the injuries and permanent disablement received by her on account of an accident that took place on 28.12.2008.

3. The learned Tribunal vide its impugned award dated 10.12.2009 partly

allowed the claim application of the claimant-respondent no.1 and ordered the appellant to pay an amount of Rs.40,000/- along with interest @ 6% per annum to the claimant within a period of two months from the date of passing of the impugned order. It was also ordered that if the appellant fails to pay the awarded amount within the stipulated period, he would pay interest @ 9% till amount is realized.

4. It is this award dated 10.12.2009 which has been challenged by the owner of the offending vehicle in the instant appeal.

5. Assailing the impugned order counsel for the appellant submits that the Tribunal has passed the said award in a mechanical manner without proper application of mind. It is contended that the Tribunal has not properly appreciated the fact that the injury caused to respondent no.1 has not been established by leading evidence of the doctor to substantiate the injury as well as the disability and in absence of which the award is not sustainable. Thus, prayed for setting aside of the impugned award.

6. Having considered the submissions made by the counsel for the appellant and on perusal of the record what clearly reflects is that undisputedly the accident occurred on 28.12.2008 at about 1.30 p.m.. It is also not in dispute that the vehicle involved in the accident was a tractor bearing registration no. C.G. 007- 0525 which at the relevant point of time was being driven by respondent no.2 Uttam Sahu and the owner of the vehicle was the present appellant. In the said accident the present respondent no.1 Smt. Rukhmani Bai sustained injuries on both her legs and she was hospitalized for sometime. She also received permanent disablement by virtue of the said accident. Another admitted fact in the instant case is that at the relevant point of time the appellant's tractor which was involved in the accident was also not having proper insurance policy.

7. In view of the aforesaid factual position and which are not in dispute,

now all that has to be seen is that whether the Claims Tribunal has committed an error of law while deciding the claim application and awarding an amount of Rs.40,000/- as compensation with interest @ 6% per annum payable to the claimant-respondent no.1 by the appellant.

8. The admitted fact which has come on record is that the claimant-respondent no.1 was working as a daily wage worker and was getting Rs.100/- a day. Accepting that to be the base wage, Rs.3,000/- was taken to be the monthly wage of the claimant. The claimant had claimed in her claim application that she had incurred expenses of Rs.30,000/- towards medical expenses and Rs.10,000/- towards her travelling and healthy food while she was under treatment. However, the Tribunal taking into consideration the evidence which has come on record has just given an average amount of Rs.5,000/- towards travelling expenses and Rs.2,000/- towards the expenses met for keeping an assistant while the injured was under treatment. So far as the medical expenses are concerned, the Tribunal has given a lump sum of Rs. 35,000/- and Rs. 5,000/- has been given for physical and mental pain and agony. Thus, the Tribunal passed an order for payment of total of Rs.40,000/- payable to the respondent no.1 by the appellant.

9. By way of the evidence which has been led by the complainant-respondent no.1 she has proved the accident, the ownership of the vehicle and her income. If we look into the record, we will find that there is also a police Complaint made immediately after the accident which was later on settled out of the Court and therefore the Police did not register the offence. This also draws a strong inference in favour of the injured claimant. Thus, taking all these into consideration the amount of compensation awarded by the Tribunal, this Court is of the opinion that the Claims Tribunal has not committed any illegality or infirmity in reaching to the conclusion that the

claimant-respondent no.1 is entitled for the compensation as awarded vide impugned order dated 10.12.2009.

10. Accordingly, the instant appeal being devoid of merit deserves to be and is accordingly dismissed. The interim order passed by this Court on 03.03.2010 stands vacated.

**Sd/-
(P. Sam Koshy)
JUDGE**