

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MISC. APPEAL (C) NO. 30 OF 2015

Dr. R.R. Chandel, aged about 42 years, S/o Late Firan Lal, R/o Village-Rumgara, P.S. Balko Tahsil and District Korba (C.G.)

... Appellant

Versus

1. Manharan Lal Chouhan, S/o Bhagirathi Chouhan, aged about 42 years, R/o Village- Ghuraina, P.S. Uрга Tahsil and District Korba (C.G.)
2. Vishan Sahgal, S/o S.K. Sahgal, R/o Ward No.4, Rani Road Korba, Tahsil and District Korba (C.G.)
3. The New India Insurance Company Ltd., through Branch Office, Commercial Complex, Transport Nagar, Korba, Tahsil and District Korba (C.G.)

... Respondents

For Appellant : Mr. A.L. Singroul, Advocate.

For Respondent No.3 : Mr. Qamrul Aziz and Mr. G.V.K. Rao, Advocates.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

12/02/2016

1. Heard on admission.
2. The present appeal has been filed by the Appellant-Claimant for enhancement of compensation of Rs.25,000/- awarded by the IInd Additional Motor Accident Claims Tribunal, Korba vide award dated 27.9.2014 in Motor Accident Claim Case No. 34 of 2014.
3. The facts relevant for adjudication of the appeal are that the Appellant-Claimant had filed a claim application before the Claims Tribunal under Section 166 of the Motor Vehicles Act pleading that on 5.12.2012 while he was going on his motorcycle to Darri from Korba, a Truck bearing registration No. CG12-C-2132 which was coming from the opposite direction, driven by Respondent No.1, owned by Respondent No.2 and insured with Respondent No.3-Insurance Company, dashed against the Appellant's motorcycle causing injuries to him.

4. The Appellant-Claimant on account of the said accident had to undergo six months of treatment and in the course incurred a substantial loss both professionally as well as the loss incurred during the period of his treatment and accordingly sought for a compensation of Rs.17,00,000/- with 12% annual interest.

5. The Claims Tribunal taking into consideration the pleadings and evidence which have come on record and also considering the evidence which has been adduced by the Appellant-Claimant and the nature of injury sustained by him, vide award dated 27.9.2014 held that the Appellant-Claimant has not been able to establish the actual financial loss incurred by him in the course of his medical treatment, and awarded a total compensation of Rs.25,000/- [Rs.15,000/- towards medical expenses and Rs.10,000/- for pain and suffering] in favour of the Appellant-Claimant fastening the liability upon Respondent No.3-Insurance Company to pay the said amount of compensation.

6. Learned Counsel for the Appellant-Claimant submits that the Claims Tribunal has failed to appreciate the fact that he was an Ayurvedic Doctor and has suffered a huge financial loss for the six months period during which he had to undergo treatments during which time he did not earn from his profession. He further submits that the said amount of compensation awarded by the Claims Tribunal is on the lower side which needs to be suitably enhanced.

7. On the other hand, learned Counsel for Respondent No.3-Insurance Company has supported the impugned award.

8. Having heard the learned Counsel for the parties and considering the finding of the Court below wherein it has been specifically held by the Claims Tribunal that the Appellant-Claimant has not been able to substantiate his claim for grant of more compensation by both adducing

evidence showing the medical expenditure incurred by him and also showing proof of the income that he was drawing prior to the date of accident and subsequent to his recovery after six months from his profession. In the absence of any proof of income by the Appellant-Claimant and also any proof on the part of the Appellant-Claimant so far as medical expenditure is concerned, this Court is of the opinion that the finding arrived at by the Claims Tribunal does not warrant any interference and the same is proper, legal and justified.

9. Accordingly, the appeal being devoid of merit is dismissed.

Sd/-
(P. Sam Koshy)
Judge