

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 1038 of 2017

Ayush Kumar Gupta S/o Shri Alok Gupta, Aged About 12 Years
Minor Represented Through Mother And Legal Guardian Smt.
Sushma Gupta W/o Shri Alok Gupta, Aged About 26 Years, R/o
Gandhinagar, Ward No. 3, Near Hotel Bandhan, Ambikapur, Tahsil
Ambikapur, District Surguja (Chhattisgarh).

---- Appellant

Versus

1. Alok Kumar Gupta S/o Late Ramlagan Gupta, Aged About 32 Years
Occupation Police Constable, R/o Gandhinagar, Ward No. 3, Near
Hotel Bandhan, Ambikapur, Tahsil Ambikapur, District Surguja
(Chhattisgarh).
2. Ravi Kumar Sharma S/o Vikram Sharma, Aged About 21 Years
Occupation Vehicle Driver, R/o Langarsai Ward Kenabandh,
Shikariroad, Ambikapur, District Surguja (Chhattisgarh).
3. The Branch Manager, Ifco Tokyo General Insurance Company
Limited, Through Head Branch Office, Plot No. 3, Sector - 29,
Gudgaon (Hariyana) 122001.

----Respondents

For Appellant	:	Mr. D.N. Prajapati, Advocate
For Respondent No.3	:	Mr. Amrito Das, Advocate

Hon'ble Shri Justice P. Sam Koshy

Order on Board

11/09/2017

1. The present is an appeal by the claimants challenging the impugned award dated 11.05.2017, passed by the 4th Additional Motor Accident Claims Tribunal, Ambikapur, District Surguja, in Motor Accident Claim Case No. 218/2016 seeking for further enhancement of the compensation. Vide the said impugned award, the Tribunal in a proceeding under Section 166 of the Motor Vehicles Act in an injury case has awarded a compensation of Rs.3,25,368/- with interest @ 6% per annum from the date of application. Of the said amount Rs.3,03,368/- is the compensation towards medical expenses incurred by the appellant.
2. The contention of the appellant is that the compensation awarded under the different heads are too meager an amount and for the

serious injuries sustained by the appellant he is entitled for more compensation. The major injury, which the appellant, a 12 years old boy sustained was on his head and for which after his initial treatment at Ambikapur, he was referred to the Apollo Hospital, Bilaspur and where he had to be hospitalized for a considerable period of time.

3. According to the counsel for the appellant as a result of the accident, the appellant has suffered grievous injuries and which has adversely affected his growth, his studies and has also lost one academic session of his school and thus prayed for the compensation awarded by the Tribunal to be enhanced suitably.
4. The counsel for the Insurance Company however opposes the appeal on the ground that the claimants have not substantiated their claim by leading medical evidence to corroborate their evidence and therefore the award passed by the Tribunal is just and reasonable and does not warrant any interference and prayed for rejection of the appeal.
5. Having heard the contentions put forth by the counsel for the parties and considering the age of the appellant at the time of accident, the gravity of the injuries as is reflected from the documents produced during the course of evidence, this Court is of the opinion that the amount of compensation awarded by the Tribunal deserves a suitable enhancement as in the instant case the amount of compensation for engaging attendant and incidental expenses awarded is only Rs.3,000/- which in today's time is too meager an amount.
6. Likewise, considering the age of the appellant, who was a 12 years old boy which is too young an age to sustain such grievous injuries that too on his head. He must have required great amount of special diet to regain his lost health, strength and energy. Likewise, considering the fact that the 12 years boy had undergone major surgeries on his head, as a result of the head injury, he must have undergone tremendous amount of pain and suffering at this tender age. Thus, the amount of Rs.10,000/- undoubtedly is unreasonably

low considering the total facts and circumstances of the case and particularly taking into considering the nature of injuries and the treatment required and above all the age of the appellant. This Court is of the opinion that the amount of compensation awarded thus required enhancement and in the opinion of this Court an additional amount of Rs.50,000/- towards future medical treatment and expenses and further an additional amount of Rs.40,000/- towards pain and suffering as also an additional amount of Rs.23,000/- towards special diet and an additional amount of Rs.7,000/- towards the engagement of an attendant would meet the ends of justice, thus the appellant in the instant case shall be entitled for Rs.1,20,000/- in addition to what has already been awarded by the Tribunal. Thus, the total amount of compensation payable to the appellant would be Rs.4,45,368/- instead of Rs.3,25,368/-. The enhanced amount shall also carry interest at the same rate as has been awarded by the Tribunal.

7. The appeal thus stands allowed and disposed of accordingly.

Sd/-
(P. Sam Koshy)
Judge

Ved