

HIGH COURT OF CHHATTISGARH AT BILASPUR**MAC No.1457 of 2017**

Brijesh Choubey S/o B. N. Choubey, Aged About 39 Years, Occupation Sub Revenue Inspector, Nagar Panchayat, R/o Lakhanpur, District Surguja Chhattisgarh, Permanent R/o Near Trikond Chowk, Kedarpur, Ambikapur District Surguja Chhattisgarh.

---Appellant

Versus

1. Gangaram Khomariya S/o Shyamlal Khomariya, Occupation Transport Operator, R/o Village Yadavpara, Tahsil Ambikapur, District Surguja Chhattisgarh (Owner).
2. Kush Ram S/o Purshottam, Occupation Driver, R/o Village Khaliba, Tahsil Ambikapur, District Surguja Chhattisgarh (Driver).
3. Branch Manager, Shri Ram General Insurance Company Limited, Ambikapur District Surguja Chhattisgarh (Insurer).

---Respondents

For the appellant : Shri A.K.Prasad, Advocate.

Hon'ble Shri Justice P. Sam Koshy
Order on Board

01/11/2017

1. Present is an appeal under Section 173 of the Motor Vehicle Act assailing the award dated 14/07/2017 passed by the 4th Additional Motor Accidents Claims Tribunal, Ambikapur, District Surguja (C.G.) in Motor Accident Claim Case No.129/2016.
2. Vide the said impugned award, the Tribunal in an injury Case under Section 166 of the Motor Vehicles Act has awarded the compensation of Rs.3,06,198/- with interest @ 6% per annum.
3. The counsel for the appellant submits, that the impugned award does not reflect any compensation to have been awarded for disability which the claimant had sustained. He further submits, that the claimant in the instant case received grievous head injuries and had hospitalized for a suitable long period and had to get treatment in different hospitals and therefore the claimant was entitled for more compensation than what has been awarded by the Tribunal. He further submits, that the compensation towards special diet, mental agony,

pain and suffering which he has undergone also deserves reconsideration as the amount awarded under these heads is unreasonably low. It was further contended by the counsel for the appellant, that the claimant also could not produce the bills for repairing of the Motorcycle in which he was traveling at the time of accident which too had to be repaired and which had also incurred some expenses. Lastly it was contended by the counsel for the appellant, that the injured could not get disability certificate from the doctor neither could he get the doctor examined before the Tribunal on account of which the disability part has not been established. Therefore, he prays that the matter may be remitted back so that the claimant get himself examined before the Medical Board so far as ascertaining his disability is concerned and to get the doctor examined by asking the doctor to appear before the Tribunal or taking necessary steps towards examining the doctor on commission. He further submits, that he could also have the liberty of getting the mechanic examined who had repaired the Motorcycle to prove the bills pertaining to the repairing of the Motorcycle etc.

4. The prayer of the counsel for the appellant seems to be fair and reasonable for the reason, that out of Rs.3,06,198/- which has been awarded by the Tribunal, more than Rs.2,50,000/- is towards the expenses incurred in the treatment of the claimant and Rs.35,000/- is towards traveling expenses. Thus, it was proved that the amount of compensation awarded under the other heads are too meager an amount.

5. Thus, this court is of the opinion that ends of justice would meet if the impugned award is set aside and is remitted back to the Tribunal below for passing the award afresh after granting an opportunity to the claimant to produce the certificate of disability from the District Medical Board and to prove the said documents before the Tribunal by leading the appropriate evidence. He may also have the liberty to produce the bills of expenses incurred in the repairing of the Motorcycle.

6. Needless to mention, that it shall be the liberty of the claimant to either call for the witness to the Court for examining or may get the witness examined on commission.

7. With the aforesaid observation, the impugned award dated 14/07/2017 stands set aside/quashed and it is remitted back to the Tribunal below for fresh adjudication. The appellant is directed to enter appearance before the Tribunal on 21/11/2017 and it is expected that the Tribunal may decide the matter at the earliest.

8. The appeal stands partly allowed and disposed off.

Sumit

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