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HIGH COURT OF CHHATTISGARH, BILASPUR

MAC No. 1678 of 2016

Lomas Kumar S/o Nikhad Ram Verma, Aged About 30 Years R/o Village- Munda, Police Chowki- Lavan, Thana- Kasdol, Tahsil Balodabazaar, District Balodabazaar-Bhatapara, Chhattisgarh.

---- Appellant

Versus

1. Jeevan Lal S/o Baliram Ghritlahare, Aged About 43 Years Village- Risda, Thana & Tahsil Balodabazaar, District Balodabazaar-Bhatapara, Chhattisgarh ....(Driver Of Hero Honda Bearing No. C.G.13 F/6540)
2. Khilavan Prasad S/o Jhabbulal, Aged About 28 Years Village- Koliha, Chowki- Lavan, Thana Kasdol, Tahsil Balodabazaar, District Balodabazar-Bhatapara, Chhattisgarh ....(Driver Of Hero Honda Bearing No. C.G.04 K.R./5365)
3. I.C.I.C.I. Lombard General Insurance Company Limited, Zonal Office Lalganga Complex, G.E.Road Raipur, District Raipur, Chhattisgarh ....(Insurance Company Of Hero Honda Passion Bearing No. C.G.04 K.R./5365)./

---- Respondents

For Appellant	:	Shri Deepak Jain, Advocate.
For Respondents No.1	:	Shri CK Sahu, Advocate.
For Respondent No.2	:	None.
For respondent No.3	:	Shri P. Acharya, Advocate.

SB: Hon'ble Shri Justice P. Sam Koshy

Order On Board

05/07/2017

1. The present appeal has been filed against the award dated 19.07.2016 passed by the Motor Accident Claims Tribunal, Balodabazar (in short, the Tribunal) in Claim Case No.H-93/2014.
2. Brief facts of the case is that the claimant in the instant case was the victim who met with an accident on 01.10.2013 when he was travelling in the motorcycle of respondent No.2 as pillion rider and

was dashed by the motorcycle of respondent No.1 which was being driven by respondent No.1 himself. It is a case where the vehicle belonging to the respondent No.1 was not insured and the vehicle belonging to the respondent No.2 was insured with the respondent No.3. The appellant-claimant in the said accident had sustained injuries all over the body and the main injury was on the hip bone and on head. The claimant was hospitalized at Balaji Hospital, Raipur for the period 02.10.2013 to 18.10.2013 i.e. about 16 days. The doctor who had treated the claimant was examined as PW-3 who made a statement during the course of evidence that the claimant was suffering from 60 percent temporary disablement and that it would also take more than 3 years for this disability to be cured.

3. The Tribunal considering the evidence pertaining to the age of and wage of the claimant vide award impugned had granted compensation of Rs.2,35,000/- of which 1,50,000/- was towards the medical treatment and Rs.15,000/- towards miscellaneous expenses occurred while he was hospitalized. The compensation awarded for the loss of income because of disablement was only Rs.50,000/-. It is this award which is under challenge in this appeal.

4. Learned counsel for the appellant-claimant submits that the amount awarded by the Tribunal towards loss of income on disablement is on the lower side considering the fact that he has proved his case of 60 percent temporary disablement therefore seeks for enhancement of the compensation.

5. The respondents including the insurance company opposing the

appeal submits that the award amount seems to be fair and reasonable as it has taken into consideration the fact that the claimant was suffering from only temporary disablement and that in due course of time he would have recovered completely. Therefore, the award does not warrant any interference.

6. Having considered the rival contentions put forth on either side and on perusal of record, true it is that the claimant has established before the court below so far as his injury is concerned. It is also not in dispute that the claimant was hospitalized for about 16 days and had also undergone surgery. The doctor has also been examined before the court below and who has stated that the temporary disablement is of 60 percent and that it would take more than three years time to cure disablement part completely.

7. Keeping all these facts in mind and also the nature of employment, it is apparent that he would definitely be finding it difficult to perform his daily routine work smoothly as he was doing prior to the accident. That for this inconvenience and pain which he would further suffer for next three years, the amount of Rs.50,000/- awarded by the Tribunal is definitely on the lower side. Ends of justice would meet in case if the compensation part under this head is enhanced from Rs.50,000/- to Rs.1,50,000/- and is ordered accordingly. Thus, the claimant would now become entitle for Rs. 3,35,000/- as total compensation in place of Rs. 2,35,000/- as awarded by the Tribunal.

8. In view of the foregoing, the appeal is allowed in part. The compensation of Rs.2,35,000/- awarded by the Tribunal is enhanced

to Rs. 3,35,000/- i.e. Rs.1,00,000/- over and above the amount awarded by the Tribunal.

9. The enhanced amount of compensation of Rs. 1,00,000/- shall carry interest @ 6 percent per annum from the date of application till its actual payment. Rest of the conditions mentioned in the award shall remain intact. The award stands modified to the above extent. No order as to costs.

10. The respondent-Insurance Company is granted two months' time to deposit the enhanced amount of compensation of Rs.1,00,000/- along with interest before the concerned Tribunal. No order asto costs.

Sd/-

(P. Sam Koshy)
Judge

inder