

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MISC. APPEAL (C) NO. 770 OF 2010

- Prabhat @ Prabhas Chaturvedi, age about 27 years, S/o Gyaneshwer Chaturvedi, R/o New Shanker Nagar, Road No.3, Thana-Mohan Nagar, Tahsil & District Durg (C.G.)

... Appellant

Versus

1. Suresh, S/o Gopi Kumar, Behra, R/o Village- Goverdhanpur, P.O. Bas Pokhari, Police Thana- Aithapali, District- Sambalpur (Orissa)
2. Jagmohan Bhatia, age about 35 years, S/o Premchand Bhatia, R/o Village- Khetrajpur, Police Thana- Aithapali, District- Sambalpur (Orissa)
3. The Oriental Insurance Company Company Ltd., through its Branch Manager, Second Floor, Co-oomer & Co-oomer Building, Nayapara, Sambalpur, District- Sambalpur (Orissa)

... Respondents

For Appellant	:	Mr. Yogesh Pandey, Advocate.
For Respondent No.3	:	Mr. Hanuman Prasad Agrawal, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

30/08/2017

1. The present is an appeal by the Claimant under Section 173 of the Motor Vehicles Act seeking enhancement of the compensation awarded by the Eight Additional Motor Accident Claims Tribunal (F.T.C.), Durg, vide its award dated 30.3.2010 in Claim Case No.14 of 2008.
2. It is a case where on 20.8.2006 the appellant-claimant met with a road accident when he was travelling on his motorcycle bearing Registration No. CG06-J/6915 which was hit by a Truck No. CG04-G/3657. As a result of the accident, the appellant-claimant received injuries on his hip and the injuries further resulted the appellant becoming an impotent.
3. The Tribunal, vide the impugned award, in a proceeding under Section 166 of the Motor Vehicles Act initiated by the appellant-claimant, has awarded a compensation of Rs.63,689/- to the appellant-claimant with interest thereon at the rate of 6% per annum. Of the compensation, Rs. 21,689/- was awarded towards medical expenses, Rs. 7500/- was for the

engagement of an attendant during the 5 months period that he underwent the treatment, Rs. 7500/- for the special diet, Rs. 2000/- for transport, Rs. 15000/- for the loss of income during the said 5 months period, Rs. 5000/- for the loss of consortium because of the injury getting him impotent and Rs. 5000/- for the pain and agony, i.e., total Rs. 63,689/-.

4. Learned Counsel for the appellant-claimant relied upon a judgment of the Hon'ble Supreme Court in the case of *G. Ravindranath Vs. E. Srinivas*, 2013 (12) SCC 455. Referring to the said judgment he submits that the case of the appellant-claimant squarely fits into the facts of the said judgment and therefore the appellant-claimant should be awarded the compensation equal of the amount awarded in the said judgment of the Hon'ble Supreme Court, i.e., Rs. 20,20,000/- with interest.

5. Learned Counsel for the respondent-insurance company however opposes the appeal and submits the nature of injury sustained by the claimant in *G. Ravindranth* (supra) was entirely different except for the common fact that the claimant therein and the claimant herein have become impotent. He further submits that in the case of *G. Ravindranth* (supra), the claimant therein had suffered multiple injuries and had also undergone multiple surgeries and that the facts of the present case are not similar inasmuch as there was no multiple injuries sustained by the claimant herein nor was there multiple surgeries required for the claimant. Thus, the present case cannot be equated at par with the judgment of the Apex Court in *G. Ravindranth* (supra).

6. Having considered the rival contentions put forth on either side and on perusal of the record, true it is that the nature of injuries sustained by the claimant in *G. Ravindranth* (supra) was quite different. The only fact which is common is the fact that the claimant in the both case have become impotent as a result of the injuries sustained in the accident. The

Hon'ble Supreme Court for the injury of impotency sustained, itself has elaborately dealt with the issue and has awarded compensation to the claimant therein suitably.

7. Considering the nature of injuries and the future medical expenses and also the over all facts and circumstances of the present case, this Court is of the opinion that for the injury of impotency sustained by him because of the accidental injuries the compensation awarded by the Tribunal deserves to be suitably enhanced.

8. So far as the treatment part is concerned, since the appellant-claimant had raised the bills only for an amount of Rs.21,689/- and the Tribunal has entirely accepted and allowed the same, the said compensation does not warrant any interference.

9. Likewise, for the loss of income for the period of 5 months during which the treatment was undergoing quantified at Rs.15,000/- also does not warrant interference as it is in accordance with the claim that has been claimed by the appellant-claimant.

10. Further, so far as the compensation awarded under the other heads the same deserves for enhancement keeping in view the ratio laid down by the Hon'ble Supreme Court in *G. Ravindranth* (supra). For the future medical expenses which the appellant-claimant may incur for his treatment for removing the deficiency that he has suffered, this Court awards Rs.3,00,000/-. For the pain and suffering also, considering the nature of the injuries and the fact that the treatment went on continuously for the period of 5 months, he further would require more treatment, this Court awards Rs. 2,00,000/-. Likewise, considering the nature of injuries and the facts which have been brought to the notice of the Tribunal that at the time of accident the appellant-claimant was aged about 27 years and the accident being of the year 2006, even today after about 10 years he is

unmarried and quite obviously may be because of the reason of impotency, the compensation payable towards loss of amenities and consortium deserves to be awarded and this Court quantifies the same at Rs. 2,00,000/-. Similarly, as a result of the said deficiency the amount of mental agony which he would have to suffer all through his life and which cannot be quantified nor can it be measured, this Court quantifies the compensation towards the mental agony at Rs. 2,00,000/-. Lastly, for the engagement of attendant for his future treatment as also for special diet that he may require as a part of the treatment, this Court quantifies a lump sum compensation of Rs. 75,000/-. Thus, the appellant-claimant shall be entitled for a total compensation of Rs. 10,11,689/- instead Rs. 63,689/- as awarded by the Tribunal.

11. In the result, the appeal is allowed accordingly and the impugned award is modified to the extent that the appellant-claimant shall be entitled for a compensation of Rs. 10,11,689/- with interest thereon at the same rate as has been awarded by the Tribunal. Rest of the conditions stipulated in the award shall remain intact.

Sd/-
(P. Sam Koshy)
Judge