

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 54 of 2014**

- Sunil Gupta S/o Rajaram Gupta, aged about 32 years, R/o Bazarpara, Lormi, Tahsil and Police Station Lormi, District - Bilaspur, at present residing at Naya Sarkanda, Muktidham Chowk, Bilaspur, Tahsil & District Bilaspur.

---- Appellant**Versus**

1. Ashwani Kumar Gond S/o Aghnuram Gond, aged about 25 years, R/o village Dholgi, Tahsil & Police Station Lormi, District - Bilaspur (C.G.)

(Driver of truck bearing No. C.g.10-C-2287)

2. Pawan Kumar Agrawal S/o Late Shanker Lal Agrawal, R/o Main Road, Lormi, Tahsil & Police Station Lormi, District Bilaspur (C.G.)
3. National Insurance Company Limited, Through : Division Officer, Taha Complex, Vypar Vihar Road, Bilaspur, Tahsil & District -Bilaspur (C.G.)

(Insurer of truck bearing No. C.G.10-C-2287)

---- Respondents

For Appellant	:	Shri N.K. Chatterjee, Advocate.
For Respondents 1&2 :		None.
For Respondent No.3 :		Shri Ratan Pusty, Advocate

Hon'ble Shri Justice Pritinker Diwaker
Hon'ble Shri Justice Ram Prasanna Sharma

Order On Board**By Pritinker Diwaker, J****21/07/2017**

1. This appeal filed by the claimant/appellant arises out of the award dated 07.08.2013 passed by 3rd Motor Accident Claims Tribunal (for short the "Tribunal") Bilaspur in Claim Case No.221/2011 whereby in an injury case compensation of Rs.23,400/- has been awarded to the claimant/appellant herein.

2. Facts of the case, in brief are that on 02.06.2011 the claimant was returning from village Dholgi to his house situated at Lormi along with his friend on Suzuki motorcycle. When he reached near village Dholgi Onkar Farm House, the offending vehicle i.e. Truck No.CG-10-C-2287 being driven by respondent No.1 herein rashly and negligently, came from opposite direction and gave dash to the motorcycle of the claimant, as a result of which, he suffered number of injuries including fracture of right femur bone. Further, as per the doctor, there was non-union of ankylosis hip and knee. The appellant/claimant was hospitalized in Sanjeevani Hospital, Bilaspur from 03.06.2011 to 16.06.2011 i.e. 14 days and as per certificate Ex.A-38, he suffered 30% temporary disability. A claim case was filed by the claimant/appellant claiming compensation to the tune of Rs.7,35,000/- under various heads, *inter alia*, pleading that after the accident, he was taken to Sanjeevani Hospital where his leg was operated and plate was inserted in his leg. It has been further pleaded that due to the said accident, the claimant is unable to perform his

day to day work and there is gross downfall in his income.

03. Pleadings of the claimant has, however, been denied by the respondent/insurance company.

04. The Claims Tribunal by the impugned award has awarded a compensation of Rs.23,400/- to the appellant under various head such as pain & suffering, loss of income and expenses incurred in the treatment. It is this award which has been challenged by the appellant in this appeal.

05. Counsel for the appellant submits that:-

- The Claims Tribunal has erred in law in awarding very negligible compensation for the injuries sustained by the claimant.
- No amount has been granted under the head "future treatment". The sum awarded under the head "pain & suffering" is also on the lower side.
- That the amount awarded under conventional heads is also quite inadequate.

06. On the other hand, counsel for the respondent No.3- Insurance Company supports the award impugned.

07. Heard counsel for the parties and perused the material available on record.

08. Considering the fact that the claimant/appellant remained hospitalized for 14 days in the hospital and during this period a rod was inserted in his leg and further

considering that in future also he would be required to undergo surgery for removal of said rod, it is apparent that the claimant would have suffered much pain and agony and would also be required to incur expenses in future treatment.

09. Thus, keeping in view all the above things, this Court is of the view that the amount awarded by the Claims Tribunal is on lower side and requires reconsideration. The claimant/appellant is entitled for compensation in the following manner:-

Heads	:	Amount Awarded
For Medical Expenses	:	Rs.18,000/-
For Loss of income during treatment	:	Rs.15,000/-
For Pain and Suffering	:	Rs.50,000/-
For Future treatment	:	Rs.10,000/-
For Special Diet	:	Rs.5,000/-
For Attendant	:	Rs.5,000/-
For conveyance	:	Rs.5,000/-
Total	:	Rs.1,08,000/-

10. On the basis of aforesaid discussion, the claimant/appellant is held entitled for a total compensation of Rs.1,08,000/-. Since, the Claims Tribunal has already awarded Rs.23,400/-, after deducting the said amount, the claimant/appellant is entitled for enhanced amount of Rs.84,600/- (1,08,000 - 23,400) rounded off at Rs.85,000/-. This additional amount of compensation shall carry interest @ 9% p.a. from the date of filing of claim application till realization.

11. In the result, the appeal is allowed in part and the award impugned stands modified to the extent indicated above.

Sd/-
(Pritinker Diwaker)
Judge

Sd/-
(Ram Prasanna Sharma)
Judge

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