

HIGH COURT OF CHHATTISGARH, BILASPUR

MAC No. 570 of 2015

- Raghvendra Jaiswal S/o Late Gajanand Jaiswal Aged About 27 Years
R/o New Bus Stand Pali Police Station And Tahsil Pali District Korba
Chhattisgarh

---- Appellant

Versus

- Ashok Yadav @ Dukalu And Ors. S/o Alaal Yadav Aged About 35
Years R/o Ratanpur Gadwat, Police Station Ratanpur, District Bilaspur
Chhattisgarh (Driver)
- Smt. Sandhya Jain W/o Santosh Jain R/o Pal Tyree T.P. Nagar Korba
District Korba Chhattisgarh (Owner)
- National Insurance Company Limited Through Branch Manager, Office
-13 Minu Complex District Korba Chhattisgarh (Insurer of Offending
vehicle)

---- Respondents

For Appellant	:	Shri Vijay Kumar Sahu, Advocate
For Respondent No.3	:	Shri Anil Gulati, Advocate

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

Order On Board

31/07/2017

This appeal arises out of the impugned award dated 24.02.2015 passed by the Additional Motor Accident Claims Tribunal (for short the 'Tribunal') Katghora in Claim Case No. 56/2013 awarding a compensation of Rs. 54,809/- in an injury case in favour of the appellant/claimant.

2. Brief facts of the case are that on 26.08.2011, when the appellant/claimant was going towards Korba from Pali on a motorcycle, near Gopalpur Basti, a truck (capsule) bearing registration No. CG-12-C00318 driven by respondent No.1 herein in a rash and negligent manner came and dashed against the motorcycle on account of which the appellant/claimant

sustained injury and fracture of left leg.

3. A claim petition was filed by the appellant/claimant claiming a compensation of Rs. 9,55,000/- *inter alia* pleading that in the accident which occurred on account of rash and negligent act of the respondent No.1/driver who was driving the offending vehicle he suffered grievous injuries and incurred the expenditure of Rs. 80,000/- for his treatment. He also pleaded to have the possibility of expenditure for his future treatment.

4. Pleadings of the appellant/claimant have, however been denied by the respondents No.1 to 3.

5. After considering the pleadings of the respective counsel and evaluating the evidence available on record, the Tribunal has awarded the total compensation of Rs. 54,809/- in favour of the appellant/claimant. Hence this appeal for enhancement.

6. Counsel for the appellant/claimant submits that looking to the injuries sustained by the appellant/claimant, the compensation awarded by the Tribunal under all the heads is too much on the lower side and therefore the same is required to be enhanced suitably.

7. On the other hand, counsel for the respondents support the award impugned.

8. Heard counsel for the parties and perused the documents on record.

9. From the pleadings of the respective parties and the overall evidence on record, it is clear that the accident occurred with the offending vehicle which was insured with respondent No.3 and was being driven by respondent No.1 in a rash and negligent manner. Though the appellant/claimant has made a pleading that he suffered grievous injuries in the accident, no evidence was adduced by him to substantiate the same and being so the Tribunal was absolutely justified in not accepting the injuries suffered by him

to be grievous in nature. Further the appellant has not suffered any permanent disability and the disability suffered by him was temporary in nature.

10. True it is that under different heads, the Tribunal has either awarded less compensation or has not awarded any compensation. Thus keeping in view the facts and circumstances of the case, in particular the injuries suffered by the appellant/claimant, this Court thinks it just and proper to award compensation of Rs. 50,000/- to the appellant in addition to what has been awarded by the Tribunal. Appellant/claimant is thus entitled for the overall compensation of Rs.1,04,809/- (Rs. 54,809 + 50,000) and deducting the amount awarded by the Tribunal, the enhanced sum comes to Rs. 50,000/- which he is entitled to receive with interest at the rate of 9% per annum from the date of application till realization.

11. Appeal is thus allowed in part with the modification in the award impugned as indicated above.

Sd/-

(Pritinker Diwaker)
Judge

Sd/-

(Ram Prasanna Sharma)
Judge