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HIGH COURT OF CHHATTISGARH, BILASPUR

Miscellaneous Appeal (Civil) No. 827 of 2014

- Kuldeep Raj Singh, S/o Lal Gajraj Singh, Aged about 53 years, R/o Ward No. 4, Khairagarh, Tahsil Khairagarh, District Rajnandgaon, C.G.

---- Appellant/Claimant

Versus

1. Branch Manager, I.C.I.C.I. Lombard General Insurance Company Limited, Khairagarh Road, Near Railway Crossing, District Rajnandgaon, C.G.
(Insurer)
2. Parmanand @ Bande, S/o Shri Mangilal Patel, Aged about 35 years, Driver, R/o Krtbans, Tahsil Chuikhadan, District Rajnandgaon, C.G.
(Driver)
3. Bhavesh Kumar Agrawal, S/o Shri Rajendra Kumar Agrawal, Aged about 36 years, Vehicle Owner, R/o Gandal, Tahsil Chikhadan, District Rajnandgaon, C.G.
(Owner)

---- Respondents

For Appellant	:	Shri Praveen Dhurandhar, Advocate
For Respondent No.1	:	Shri Sourabh Sharma, Advocate
For Respondents 2 & 3	:	None

Hon'ble Shri Justice Gautam Chourdiya, J

Judgment on Board

24.10.2018

1. The present is an appeal under Section 173 of the Motor Vehicles Act, 1988 preferred by the Claimant/Appellant, seeking enhancement of the compensation awarded by the Additional Motor Accident Claims Tribunal, Khairagarh, District Rajnandgaon (C.G.) vide award dated 18.07.2014 passed in Claim Case No. 07 of 2012.
2. The injured-Claimant/Appellant claimed compensation of Rs.5,29,950/- by filing a claim petition under Section 166 of the Motor Vehicles Act, 1988 for the injuries sustained by him in the motor accident.
3. The facts of the case are that on 13.07.2011, Claimant/injured was coming from his brother,s vehicle Mopad bearing registration No. CG-08 A 1279 towards

main road to his home, Respondent No.2/driver of the offending vehicle Bus bearing registration No. CG-04-ZA-0612 driving the said vehicle in a rash and negligent manner dashed the Mopad due to which the Appellant/Claimant sustained injuries on his right shoulder, right leg, right eye, face, left hand of his thumb and his tooth was also broken. The Appellant was hospitalized for 15 days.

4. The learned Tribunal, in the impugned award, has awarded a compensation of Rs.19,351/- in favour of the Claimant/Appellant with interest @ 6% per annum from the date of application till the actual payment. The Tribunal has also directed that the Respondents are jointly and severally liable for payment of compensation to the Appellant/Claimant.

5. Learned counsel for the Appellant submits that on the date of accident, the Appellant had sustained injuries in which he had suffered 25% permanent disability but the learned Tribunal has not considered this fact. He also submits that the Appellant had sustained grievous injuries and his tooth was also broken but the Tribunal has only awarded compensation of Rs.19,351/- which is on the lower side.

6. Learned counsel for Respondent No.1, however, opposes the contention made by the learned counsel for the Appellant and submits that the compensation awarded by the Tribunal is just and proper compensation in the facts and circumstances of the present case.

7. I have heard the learned counsel appearing for the parties and perused the impugned award including the records of the Claims Tribunal.

8. A perusal of the evidence of AW- 1 – Dr. Prakash Bhalerao would show that in his cross-examination, he admits that the Appellant/injured had not come to obtain disability certificate on the date of examination, therefore, the issue regarding permanent disability of 25% suffered by the injured/appellant is not proved.

9. Having regard to the above submissions and on perusal of the award including the records of the Tribunal, it appears that the learned Tribunal has

awarded compensation amount of Rs.19,351/- to the Appellant/Claimant on account of injuries received by him in a vehicular accident. So far as the arguments advanced by the learned counsel for the Appellant with regard to grievous injuries sustained by the Appellant and his tooth was broken is concerned, as per Ex.-P/15 the multiple injuries caused to the Appellant and as per Ex.-P/16 his tooth was broken and clavicular bone was fractured, without expressing any opinion on the merit about the said submission, this Court is of the view that the interest of the parties will be safeguarded by providing lump-sum additional compensation to the tune of Rs.50,000/- in addition to the amount of Rs.19,351/- awarded by the Tribunal. This Court is also of the view that the Appellant/injured is also entitled to get interest @ 6% per annum from the date of application till the actual payment.

10. Accordingly, the present appeal is partly allowed and the Appellant/injured is hereby awarded compensation amount of Rs.19,351/- + Rs.50,000/- (in total Rs.69,351/-) alongwith interest @ 6% per annum from the date of application till the actual payment. The amount of interim compensation, if paid, be deducted from the aforesaid awarded amount. However, rest of the conditions of the impugned award shall remain intact.

11. No order as to costs.

Sd/-
(Gautam Chourdiya)
Judge