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HIGH COURT OF CHHATTISGARH, BILASPUR

Miscellaneous Appeal (Civil) No. 134 of 2014

- Jitendra Singh Rajput S/o Shri Sahdeo Singh Rajput, aged about 39 years, R/o Village Khamhardih, Police Station Pandari, Raipur Tahsil & District, Civil and Revenue District Raipur (C.G.)

---- Appellant/Claimant

Versus

1. Bipul Barman S/o Santosh Barman, aged about 24 years, R/o Village Mana Camp, Block 18, Police Station Mana Camp, District Raipur (C.G.)
(Driver of alleged vehicle bearing registration No. C.G.04-DG-4064)
2. Sanjeet Barman S/o Santosh Barman, aged about 32 years, R/o Mana Camp, Ward No. 74, P.S. Mana Camp, District Raipur (C.G.)
(Owner of alleged vehicle bearing registration No. C.G.04-DG-4064)
3. The New India Insurance Company Limited, through Divisional Manager, Divisional Office-1, RDA Building Bajrang Market, Raipur (C.G.)
(Insurer of alleged vehicle bearing registration No. C.G.04-DG-4064)

---- Respondents/Non-applicants

For Appellant	:	Shri A.D. Kuldeep, Advocate
For Respondent 1 & 2	:	None
For Respondent No. 3	:	Shri Pankaj Agrawal, Advocate

Hon'ble Shri Justice Gautam Chourdiya, J

Judgment on Board

23.10.2018

1. The present is an appeal under Section 173 of the Motor Vehicles Act, 1988 preferred by the Claimant, seeking enhancement of the compensation awarded by the Fourth Additional Motor Accident Claims Tribunal, Raipur (C.G.) vide award dated 10.12.2013 passed in Claim Case No. 320 of 2011.
2. The Claimant/injured claimed compensation of Rs.28,16,000/- by filing a claim petition under Section 166 of the Motor Vehicles Act, 1988 for the injuries sustained in the motor accident.
3. The facts of the case are that on 25.01.2011 at about 10:35 AM, when the injured/Claimant was standing in front of Srishti Plaza, Avanti Vihar Colony with his

vehicle Hero Hoda (Splender Plus) bearing registration No. CG-08-J-4847 near the house of Pushpendra, at that time Respondent No.1 rider of the offending vehicle Hero Honda (Passion Plus) bearing registration No. CG-04-DG-4064 driving the said vehicle in a rash and negligent manner dashed the Appellant/Claimant. The Claimant sustained grievous injuries on his head, mouth or jaw and other parts of the body in the said accident. He was hospitalized in Ramkrishna Hospital, Raipur from 25.01.2011 to 03.02.2011.

4. The learned Tribunal, in the impugned award, has awarded a compensation of Rs.1,97,000/- in favour of the Appellant-Claimant with interest @ 6% per annum from the date of award till the date of actual payment. The Tribunal has also directed that the Respondents are jointly and severally liable for payment of compensation to the Claimant/Appellant.

5. Learned counsel for the Appellant/Claimant submits that the learned Tribunal has given interest @ 6% per annum on the compensation amount from the date of award i.e. 10.12.2013, whereas interest on the compensation amount should be given from the date of application i.e. 09.11.2011. He also submits that the actual medical expenses incurred is Rs.2,25,000/-, but only Rs.1,40,000/- has been granted by the Tribunal under this head. Therefore, Rs.2,25,000/- towards expenses for medical treatment may be considered in the instant appeal.

6. Learned counsel for Respondent No.3/Insurance Company supported the award passed by the Tribunal and submits that actual expenses as per Ex.-P/5 to Ex.-P/57 considered by the Tribunal and there is no other expenses shown and proved by the Claimant/Appellant. He also submits that there is no proof regarding permanent disability suffered by the Claimant/Appellant in this case. He further submits that the learned Tribunal considering the fracture of jaw has granted just and proper compensation in favour of the Claimant/Appellant, therefore, there is no need to interfere in the award.

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

8. Having regard to the above submissions and on perusal of the award including the records of the Tribunal, it is observed that the Tribunal has considered the entire bills pertaining to medical treatment, which have been proved by the Appellant/Claimant and thus awarded as Rs.1,40,000/- towards medical treatment. However, the Tribunal was not justified in awarding interest @ 6% per annum on the compensation amount from the date of award i.e. 10.12.2013 and it should have been from the date of application. Likewise, as per Ex.-P/21, surgery was also conducted by the Doctor on the mouth and face of the Appellant/Claimant and the Appellant has suffered disfigurement of the face, therefore, this Court is of the view that additional compensation to the tune of Rs.15,000/- for disfigurement of the face would meet the ends of justice.

9. Accordingly, the present appeal is partly allowed and the Appellant/Claimant is hereby awarded compensation amount of Rs.1,97,000/- + 15,000/- (in total Rs.2,12,000/-) along with 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 amount. However, rest of the conditions of the impugned award shall remain intact.

10. No order as to costs.

Sd/-
(Gautam Chourdiya)
Judge