

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Miscellaneous Appeal (Civil) No. 291 of 2014

- Moti Chandan Sahu, S/o Heera Ram Sahu, aged about 50 years, R/o – Chhattisgarh Nagar, Ring Road No. 1, Behind The Sahu Auto, Police Station – Tikrapara, Post Office – Raipur, Tahsil and District Raipur (C.G.)

---- Appellant/Claimant

Versus

1. Kuleshwar Pandey, S/o Mangal Singh Pandey, aged about 42 years, R/o – Kali Mandir, Bastar Road, Dhamtari, Police Station & Post Office- Dhamtari, Tahsil & District- Dhamtari (C.G.) (Driver & Registered owner of vehicle Truck bearing Registration No. CG/04/ZC/3750)
2. The United Insurance Company Limited, through, Branch Manager/In-charge Officer, The United Insurance Company Limited, Shastri Chowk, Krishna Complex, Raipur, Police Station – Golbazar, Post Office – Raipur, Tahsil & District- Raipur (C.G.) (Insurer of vehicle Truck bearing Registration No. CG/04/ZC/3750)

---- Respondents

For Appellant	:	Shri Shivendu Pandya, Advocate
For Respondent No.1	:	None
For Respondent No. 2	:	Shri Dashrath Gupta, Advocate

Hon'ble Shri Justice Gautam Chourdiya, J

Judgment on Board

22.10.2018

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 Second Additional Motor Accident Claims Tribunal, Raipur, C.G. vide award dated 18.11.2013 passed in Claim Case No.194 of 2012.

2. The injured-Claimant/Appellant claimed compensation of Rs.14,50,000/- 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 Appellant/Claimant – Moti Chandan Sahu, aged about 50 years was working as Assistant in the Polytechnic College, Rudri,

District Dhamtari. On the date of accident i.e. 25.07.2008, Appellant/Claimant with his Principal was going from Raipur to Dhamtari by his own vehicle, as soon as they reached at about 02:45 PM in between village Dandesar & Village Chhati, Respondent No.1 (driver-cum-owner) of the offending vehicle Truck bearing registration No. CG-04-ZC-3750 driving the said vehicle in a rash and negligent manner dashed the Appellant's vehicle due to which the Appellant/Claimant received injuries on various part of the body.

4. The learned Tribunal, in the impugned award, has awarded a compensation of Rs.20,000/- 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 serious injuries on various parts of the body and his right leg and collar bones were fractured. He submits that on account of the said injuries and fracture, he had suffered 25% permanent disability but the learned Tribunal has not considered this fact. He also submits that during treatment, the doctor operated the right leg of the Appellant, but, the Tribunal has only awarded compensation of Rs.20,000/- which is on the lower side. He further submits that only Rs.10,000- towards physical and mental pain has been awarded by the Tribunal which is also on the lower side.

6. Learned counsel for Respondent No.2, 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. 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 sufficient compensation of Rs.20,000/- to the Claimant/Appellant. So far as argument advanced by the learned counsel for the Appellant with regard to fracture of Appellant's right leg and collar bones that on account of the said fracture, he had suffered 25% permanent disability is concerned, the Appellant did not examine Dr. L. Yadu who had given disability certificate (Ex.-P/17), therefore, permanent disability of the Appellant is not proved. Further, considering the expenses incurred during treatment in the hospital, the same have been reimbursed from the department/office of the Appellant because he was a government employee. It is noticed from the impugned award that the Tribunal has awarded only Rs.10,000/- towards physical and mental pain, therefore, in the facts and circumstances of the case, as per Ex.-P/3, Ex.-P/7 to Ex.-P/18, the appellant sustained grievous injuries and also found bony fracture, he was operated for comminuted fracture of lower end of femur right and his treatment continuing till October, 2009, this Court is of the view that an amount of Rs.10,000/- for physical and mental pain awarded by the Tribunal can be enhanced to Rs.20,000/-.

9. Accordingly, the present appeal is partly allowed and the Appellant/Claimant is hereby awarded enhanced amount of Rs.10,000/- towards physical and mental pain. The Respondent/Insurance Company is granted 2 months' time to deposit the enhanced amount of Rs.10,000/-, failing which, it shall be liable to pay interest @ 6% per annum on the enhanced amount from the date of application till realization. However, rest of the conditions of the impugned award shall remain intact.

10. No order as to costs.

Sd/-
(Gautam Chourdiya)
Judge

