

AFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 1546 of 2015**

1. Budh Ram Pal S/o Shiv Shankar Pal, aged about 34 years, R/o Bankimongra, Tahsil: Katghora, Revenue and Civil District: Korba (C.G.).

---- Appellant/Claimant**Versus**

1. Jai Kumar Sahu S/o. Mohit Ram Sahu, aged about 26 years, R/o Kudhripara, Shanti Nagar, Bankimongra, Katghora, Tahsil : Katghora, District : Korba (C.G.)

Driver of the offending vehicle

2. Hirendra Singh S/o Ramanuj Singh, aged about : 55 years, R/o Officer Colony, Bankimongra, Katghora, Tahsil : Katghora, District : Korba (C.G.).

Owner of the offending vehicle

3. New India Insurance Company Ltd., Through : Zonal Manager, Office : T.P. Nagar, Korba, District : Korba (C.G.).

Insurer of the Offending vehicle

---- Respondents

For Appellant	: Shri D. Kushwaha, Advocate
For Respondent No. 1 & 2	: Shri Kalpesh Yadav, Advocate on behalf of Shri Brijesh Singh,
For Respondent No. 3	: Shri Anil Gulati, Advocate

Hon'ble Shri Justice Gautam Chourdiya
Judgment on Board

30.11.2018

1. This appeal has been preferred by the injured claimant against the award 01.4.2015 passed by Additional Motor Accident Claims Tribunal,

Katghora in Claim Case No.35/2012 awarding total compensation of Rs. 1,66,129/- with interest @ 6% per annum from the date of application till realization, fastening liability on the non-applicants No. 1 to 3 jointly and severely.

2. Facts of the case, as per claim petition, are that on 2.12.2011, at about 10.30 am, when the appellant/claimant was going to take Kavya Agrawal(his employer's ward) from School and when he was returned towards Gajra School to Bankimongra, at that very time, offending vehicle(car) bearing registration No. CG12R/1156 driven by respondent No. 1, in a very rashly and negligently manner, dashed the motorcycle of the appellant/claimant, as a result which, the appellant/claimant sustained grievous injuries on his hand and other parts of the body.

3. On a claim petition being filed by the claimant under Section 166 of the Motor Vehicles Act, the Tribunal considering the evidence led by both the parties passed an award as mentioned in opening paragraph of the judgment.

4. No counter appeal has been filed by the insurance company.

5. Shri D. Kushwaha, learned counsel appearing for the appellant/claimant would submit that though the appellant has not examined the doctor to prove the injuries sustained by him in the accident, however, the learned Tribunal has fallen in error in awarding low amount of compensation of Rs.1,66,129/- only, which deserves to be suitably enhanced.

6. On the other hand, learned counsel for the respondent Nos.1, 2 & 3/insurance company support the impugned award and submit that the Tribunal after considering all the relevant aspects of the matter has rightly awarded compensation, which needs no interference by this Court.

7. I have heard the learned counsel appearing for the appellant and perused the award impugned.

8. Considering the nature and extent of injury suffered by the claimant in the motor accident occurred on 2.12.2011 and other medical documents, it is noticed that long time treatment would be required for the claimant. The Tribunal has not awarded any amount towards special diet, transportation/conveyance & future treatment and therefore this Court deems it fit to grant Rs. 5,000/-, Rs. 5,000/- & Rs. 10,000/- respectively under the aforesaid heads. As regards the amount awarded towards pain & suffering, the same appears to be on lower side, which is enhanced of Rs.30,000. It would be appropriate Thus, considering all the aspects of the matter, this Court is of the opinion that the claimant is entitled for compensation in the following manner:

Sl. No.	Heads	Calculation (in rupees)
01.	Towards medical expenses	Rs. 1,41,129/- (as awarded by the Tribunal)
02.	For pain and suffering	Rs. 30,000/-
03.	For future treatment	Rs. 10,000/-
04.	For conveyance	Rs. 5,000/-
05.	For special diet	Rs. 5,000/-
06.	Total	Rs. 1,91,129/-

9. Since the Tribunal has already awarded Rs.1,66,129/-, after deducting the same from the above amount, the claimant is held entitled for additional compensation of Rs.25,000/- with interest @ 6% per annum from the date of application till realization. However, rest of the conditions of the impugned award shall remain intact.

10. In the result, the appeal is allowed in part with modification in the impugned award to the above extent.

Sd/-

(Gautam Chourdiya)
Judge

Amita