

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 737 of 2014**

- Bishnuram Sonkar S/o Late Manrakhan Aged about 52 years, R/o Village Newarikala, Post- Newarikala, Tahsil & District- Balod-(C.G.).

---- Appellant**Versus**

1. Pradeep Kumar Yadav S/o Jagatram Yadav, aged about 27 years, R/o Kelabadi, Camp-02, Ward No. 11, Dallirajhara, P.S.- Dallirajhara, District- Balod-(C.G.)
2. Ashraf Ali, S/o Samsuddin Ali, R/o Near Garder Pool, Ward No. 19, Dalirajhara, P.S.- Dallirajhara, District- Balod- (C.G).
3. Reliance General Insurance Company Ltd., Through- Claim Manager, G.E. road, In font of Maruti Business Park, National Corporate Commerce Pal Complex Park Shop No. 516, 5th Floor, Raipur-(C.G.)

---- Respondents

For Appellant	:	Shri P. R. Patanker, Advocate.
For Respondent No.3	:	Shri S. S. Rajput, Advocate.

Hon'ble Shri Gautam Chourdiya, J**Judgment On Board****03/12/2018**

This appeal has been preferred by the claimant / injured against the award dated 16.05.2014, passed by Second Additional Motor Accident Claims Tribunal, Balod, in Claim Case No. 99/2013 awarding total compensation of Rs. 2,03,403/- along with interest @ 6% per annum from the date of application till realization, fastening liability of payment of compensation upon the respondent No. 3- Reliance

General Insurance Company Limited.

02. Facts of the case, as per claim petition, are that on 29.12.2012 at about 2 pm respondent No. 1- Pradeep Kumar Yadav while driving the offending vehicle(truck) bearing registration No. CG-04-JA-6378 rashly and negligently, dashed the claimant namely Bishnuram Sonkar, who was coming from Balod to village Newarikala by his motor cycle bearing registration No. CG 07 H/9771, as a result of which he sustained grievous injuries on his right leg including permanent disability to the extent of 45%.

03. Learned counsel for the appellant/claimant would submit that learned Claims Tribunal, while assessing the amount of compensation, has wrongly considered the loss of earning to the extent of 20% only as the claimant has suffered grievous injuries including permanent disability to the extent of 45%. He submits that the amount of compensation awarded by the Tribunal is not proportionate to the injuries caused to the claimant as no amount towards future treatment & attendant has been awarded by the Tribunal. He further submits that the Tribunal has further erred in not awarding adequate sum on the head of pain & suffering & nutritional diet and therefore, the amount awarded by the Tribunal deserves to be enhanced suitably.

4. On the other hand, learned counsel for the respondent No.3 /insurance company supports the impugned award and submits that the Tribunal considering all the relevant aspects of the matter has rightly awarded compensation, which needs no interference by this Court.

5. I have heard learned counsel appearing for the parties and perused the record and impugned award of Claims Tribunal.

6. Considering the nature and extent of injuries suffered by the claimant, the statement of Dr. R. K. Mandle, who issued disability certificate (Ex.P14/C) and other medical documents, it is noticed that the claimant suffered permanent disability to the extent of 45% and long time treatment would be required for the claimant further considering the nature of job of the claimant, this Court is of the opinion that the claimant suffered loss of earning to the extent of 40%. However, the claimant is also entitled for 25% addition to the annual income towards loss of future prospects. So far as the age of the claimant is concerned the Tribunal has rightly held that the claimant is 52 years of age. The Tribunal was justified in assessing the income of the claimant as Rs. 4,000/- on notional basis. The Tribunal has not awarded sufficient amount towards attendant and future treatment. As regards the amount awarded towards medical expenses, the same is not in dispute but, amount awarded towards nutritional diet and pain & suffering are on the lower side, which deserve to be enhanced therefore, the claimant is held entitled for the compensation in view of the Apex Court Judgment in the matters of **Smt. Sarla Verma and others VS. Delhi Transport Corporation and another, (2009) 6 SCC 121 & National Insurance Co. Ltd. Vs. Pranay Sethi, (2017) 16 SCC 680** in following manner:-

Sl. No.	Heads	Awarded by the Tribunal	Calculation (in rupees)
01.	Income of the claimant	Rs. 4,000/-per month	4,000/-per month x12 = Rs. 48,000/- per annum
02.	25% to be added towards future prospect		Rs. 48,000/- + Rs.12,000/- = Rs.60,000/-

03.	Loss of earning @ 40% per annum		Rs. 24,000/-
04.	Multiplier of 11 to be applied for assessing total loss of earning	Rs.1,05,600/-	Rs. 2,64,000/-
05.	Towards medical expenses	Rs. 32,803/-	Rs.32,803/-
06.	For nutritional diet	Rs.3,000/-	Rs.5,000/-
07.	Towards Conveyance	Rs.4000/-	Rs.5,000/-
08.	Towards pain & suffering	Rs.10,000/-	Rs.20,000/-
09.	Towards attendant	Rs.3000/-	Rs.5,000/-
10.	Towards artificial limb & future treatment	Rs.30,000/-	Rs.30,000/-
11.	Towards loss of amenities in future life	Rs. 15,000/-	Rs.15,000/-
12.	Total compensation.	Rs. 2,03,403/-	Rs. 3,76,803/-

7. Since the Tribunal has already awarded Rs. 2,03,403/-, after deducting the same from the above amount, the claimant is held entitled for additional compensation of Rs.1,73,400/- with interest @ 6% per annum from the date of application till realization. However, rest of the conditions of the impugned award shall remain intact.

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

Sd/-

**(Gautam Chourdiya)
Judge**