

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 283 of 2014**

- Ghasiram @ Lakhanlal age 50 years S/o Maladhari Caste Chaudhari (Harijan), R/o Village Jhiriyatola, P. S. & Tahsil Marwahi, Revenue & Civil Distt. Bilaspur, Distt.- Bilaspur (C.G.).

---- Appellant**Versus**

1. Raju Singh Rathaur age 22 years S/o Narmada Prasad Rathaur
2. Rajaram Rathaur age 50 years, S/o Ramawatar Rathaur

Both of them R/o Village Balbahara, P.S. Jaitahari, Distt. Anuppur M. P.

3. The New India Insurance Company Ltd. Through Branch Office Shahdol Burhar Road, Shahdol M.P.

---- Respondents

For Appellant	: Shri Aman Keshewani, Advocate
For respondent No. 3	: Shri B. N. Nande, Advocate

Hon'ble Shri Justice Gautam Chourdiya
Judgment on Board

14.11.2018

1. This is claimant's appeal seeking enhancement of compensation awarded by the Addl. Motor Accident Claims Tribunal, Pendra Road, District Bilaspur (for short 'the Tribunal') in claim case No. 04/2012 vide award dated 04th December, 2013.
2. Facts of the case leading to filing of the claim petition is that on 01.06.2010 when the appellant was coming from Marwahi Tahsil Office to Marwahi bus stand on his motorcycle bearing registration No. CG-16/3736, the respondent No. 1 by driving the offending vehicle Pickup

bearing registration No. M.P. 18/GA/1188 rashly and negligently, dashed the appellant from back side, as a result of which he sustained grievous injuries on various parts of body i.e. head, back, abdomen and leg. The appellant/injured filed an application under Section 166 of Motor Vehicle Act, 1988 for compensation to the tune of Rs. 11,00,000/- on account of injuries sustained by him in the motor accident on 01.06.2010.

3. The Tribunal, on a close scrutiny of the evidence led, held : the accident had occurred due to rash and negligent driving of Pickup Van bearing registration No. M.P.-18/GA/1188 by its driver Raju Singh Rathore i.e. respondent No. 1; appellant sustained multiple injuries in the said accident; appellant/Insurance Company alongwith owner and driver of the offending vehicle are jointly and severely liable for payment of compensation to the claimant as Insurance Company could not establish violation of policy conditions. Considering the facts & circumstances of the case, the Tribunal awarded an amount of Rs. 3,25,642/- alongwith interest @ 7.5% per annum from the date of application till its actual payment. There is no counter appeal filed by the Insurance Company.

4. Learned counsel for the appellant/claimant submits that in the motor accident occurred on 1.6.2010, claimant sustained permanent disability to the extent of 75% but unfortunately as the Disability Certificate (Ex.P-7) issued by District Medical Board, Bilaspur has not been proved by any of the doctors, who issued the said medical certificate, learned Claims Tribunal has not accepted the same as an evidence. He further submits that Tribunal has also erred in assessing the monthly income of the claimant as Rs. 2600/- where the claimant was working as labour, therefore, as per minimum wages his monthly income should have been considered as Rs. 4,000/-. He submits that Tribunal has also erred in awarding low compensation on account of pain and

suffering as the injuries suffered by the claimant in the accident are serious in nature. He also submits that as per documents of the treatment (Ex. P/11) issued by Appolo Hospital, long treatment is required to be taken by the claimant. As per medical report of the claimant, he was unable to do his work for five months, therefore, loss of earning of five months should be considered @ Rs. 4,000/- per month as per minimum wages of the labour on the date of accident. Hence, the amount of compensation awarded to the claimant for the multiple injuries sustained by him deserves to be enhanced suitably.

5. Per contra, counsel for the respondent No. 3/Insurance Company submits that the amount of compensation awarded by the Tribunal to the claimant for the injuries sustained by him in the motor accident is just and proper which does not call for any interference.

6. I have heard learned counsel for the appellant/claimant and perused the impugned award.

7. So far as permanent disability to the claimant is concerned though the claimant has produced certificate of Ex. P/7 issued by the District Medical Board according to which he suffered 75% disability, however, the said certificate has not been proved by any of the doctors considering the Medical Board. The claimant has not adduced any other evidence on the point of permanent disability resulting in loss of his earning capacity. In these circumstances, the Tribunal was justified in not considered the point of permanent disability to the claimant.

8. As regards the medical expense, from perusal of the record and the impugned award it is seen that the Tribunal has considered all the

relevant medical documents produced by the claimant and thus granted a sum of Rs. 3,01,642/- towards medical expenses. The said finding being based on proper appreciation of evidence available on record needs no interference by this Court.

9. However, looking to the facts and circumstance of the case, the nature of job of the claimant i.e. labour, the minimum wages of the labour at the relevant time, the nature of injuries suffered by the claimant, the period of his hospitalization, this Court is of the opinion that the amount awarded by the Tribunal towards loss of earning, grievous injuries, special diet as well as pain and suffering is on the lowside which is enhanced as under:-

S.No.	Heads	Amount awarded by the Tribunal	Amount awarded by Hon'ble Court
1	Loss of earning for five month	Rs.13,000/-	Rs. 20,000/- @Rs. 4,000/-
2.	Grievous injuries	Rs. 5,000/-	Rs.50,000/-
3.	Special diet	Rs. 3000/-	Rs.10,000/-
4.	Pain & Suffering	Rs. 3,000/-	Rs.25,000/-
5.	Towards medical bills	Rs. 3,01,642/-	As awarded by the Tribunal i.e. Rs. 3,01,642/-
	Total Compensation	Rs. 3,25,642/-	Rs. 4,06,642/-

10. In view of foregoing, the appeal is allowed in part. The compensation of Rs. 3,25,642/- awarded by the Tribunal is enhanced to Rs. 4,06,642/-. The appellants are entitled for a further sum of Rs.

81,000/- over and above the amount of Rs. 3,25,642/- awarded by the Tribunal. The respondent No. 3/The New Insurance Company Insurance Co. Ltd. is directed to deposit enhanced amount of compensation of Rs. 81,000/- along with interest @ 7.5% before the concerned Tribunal. Rest of conditions mentioned in the award shall remain intact. No order as to costs.

Sd/-

(Gautam Chourdiya)
Judge

Amita