

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 03 of 2014**

- Laxman Chaurasiya, S/o Ganga Chaurasiya, aged about 27 years, R/o Village Demusa Dubaulitola, Police Station Bhatani, District-Devariya (U.P.)

At present R/o Village Saakra, in the house of Dhansingh Sahu, Police Station Dharsiwa, Tahsil, Civil and Revenue District- Raipur (C.G.).

---- Appellant**Versus**

1. Naresh Pawar S/o Channulal Pawar aged about 39 years, R/o Village Torla, Police Station Gobra Nawapara, District Raipur, At present R/o Mana Camp, Behind Anganbadi Vridhshram, Police Station Mana Camp, Tahsil, Civil and Revenue District- Raipur (C.G.)
2. Haradhan De, S/o late Narayan Chand De, R/o Mana Camp, Police Station Mana Camp, Tahsil, Civil and Revenue District- Raipur (C.G.)
3. Branch Manager, The New India Insurance Company, Madina Building, Jail Road, Raipur, Tahsil, Civil and Revenue District- Raipur (C.G.)

---- Respondents

For Appellant	: Shri Malay K. Bhaduri, Advocate
For Respondent No. 3	: Shri Azad Siddiqui, Advocate

Hon'ble Shri Justice Gautam Chourdiya
Judgment on Board

13.11.2018

1. This is claimant's appeal seeking enhancement of compensation awarded by the 2nd Addl. Motor Accident Claims

Tribunal, Raipur (for short 'the Tribunal') in claim case No. 232/2012 vide award dated 05th August, 2013.

2. Facts of the case leading to filing of the claim petition is that on the fateful day i.e on 20.07.2012 when the claimant was standing near the betel shop along with his motorcycle bearing registration No. C.G. 04 C N/7996, respondent No.1 Naresh Pawar while driving the offending vehicle bearing registration No. CG04E/1308 rashly and negligently, dashed the claimant as a result of which he sustained multiple injuries including permanent disability.

3. As against the compensation of Rs.28,10,000/- claimed by the appellant/claimant by filing application under Section 166 of Motor Vehicles Act, 1988 (for short 'MV Act') for the injuries sustained by him in the motor accident on 20.07.2012, the Tribunal awarded a total sum of Rs. 2,40,000/- as compensation along with interest @ 6 percent per annum from the date of application till its actual payment.

4. The Tribunal, on a close scrutiny of the evidence led by both the parties, held : the accident had occurred due to rash and negligent driving of offending vehicle bearing registration No. C.G. 04 E/1308 by its driver respondent No. 1 –Naresh Pawar, claimant sustained multiple injuries including permanent disability in the said accident; respondent No. 3- The New India Insurance Company

Limited exonerated from its liability to pay compensation to the claimant as the offending vehicle was being driven on a route without valid permit, owner of vehicle remained *exparte*, no evidence was adduced by the owner and assessed and awarded aforesaid sum as compensation to the claimant and directed the New India Assurance Company Limited to first pay the award amount to the claimant and then to recover it from driver and owner of the offending vehicle.

5. Learned counsel for the appellant/claimant submits that as per evidence adduced by the claimant, he sustained grievous injuries on his back bone including permanent disability and he is unable to do any future technical work as the claimant was working as Melter in Agrawal Sponge, Siltara and, therefore, looking to the nature of injuries caused to the claimant, the Tribunal has erred in awarding low amount towards efficiency of loss of earning capacity, pain & suffering and special diet during treatment and, therefore, the amount of compensation should be enhanced regarding the efficiency of earning capacity of the appellant.

6. On the other hand, Shri Azad Siddiqui, learned counsel appearing for the respondent No. 3/Insurance Company would submit : looking to the facts and circumstances of the case, the amount of compensation awarded by the Tribunal is just and proper compensation, which does not call for any interference.

7. It is submitted by both the parties that no counter appeal filed by the owner.

8. I have heard learned counsel appearing for both the parties and perused the impugned award.

9. Considering the evidence adduced by the claimant Laxman Chaurasiya (AW-1) himself admitted in his cross examination that he is coming in the Court room without any support of any person and there is no any evidence adduced by the claimant that he has suffered injuries on his hand and back side. Claimant has admitted in his statement that he has not submitted any document regarding his termination from job, and, therefore, the claimant/appellant has not proved any permanent disability and efficiency of loss of working. Thus, learned Claims Tribunal has already considered all aspects of the matter regarding future treatment, pain and suffering and estimate (Ex. P-98) produced by the claimant as Rs. 75,000/- for future treatment while passing the impugned award.

10. When the matter is examined in the context of above broad features of the case and in the fact that the appellant has not sustained any loss of earning capacity due to above accident, in my considered opinion, there is no scope of enhancement in the amount of compensation awarded by the Tribunal.

11. No other points have been raised.

12. For the reasons mentioned hereinabove, the appeal fails

and is accordingly dismissed. No order as to costs.

Sd/-

(Gautam Chourdiya)
Judge

Amita