

NAFR

HIGH COURT OF CHHATTISGARH, BILASPURReserved on 6-8-2018Delivered on 20-8-2018**Misc. Appeal (C) No. 904/2012**

(Arising out of award dated 26-6-2012 passed by the 6th Motor Accident Claims Tribunal,  
Durg (CG) in Motor Accident Claims Case No. 77/2011)

Mukteshwar Nath Tiwari S/o Ramashray Tiwari Aged About 35 Years  
Birgaon, Raipur C.G.

---- Appellant

**Versus**

1. Matin Khan S/o Shabir Khan Aged About 30 Years, occupation Driver,  
Subhash Nagar, Near Taj Engineering, Mohdapar, Raipur C.G.
2. Latif Ali S/o Ema Ali House No. 18, Pandritarai, Raipur C.G.
3. National Insurance Com. Ltd. 2nd Floor, Mobin Mahal, G.E. Road,  
Raipur C.G.

---- Respondents

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|                       |   |                               |
|-----------------------|---|-------------------------------|
| For Appellant         | : | Shri Dashrath Prajapati, Adv. |
| For Respondent No. 3  | : | Shri Qamrul Aziz, Adv.        |
| For Respondents 1 & 2 | : | None appears.                 |

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**Hon'ble Shri Justice Sharad Kumar Gupta****CAV Order**

1. The appellant has preferred this appeal for enhancement of the amount of award dated 26-6-2012 passed by the 6th Motor Accident Claims Tribunal, Durg (in brevity 'Tribunal') in MACC No. 77/2011 whereby and whereunder he ordered the respondents that they shall pay Rs. 1,56,469/- jointly and severally to the appellant within a period of two months from the date of the award along with interest at the rate of 5% per annum from the date of claim petition till its realization.

2. This is admitted by the respondent No. 3 that, the offending vehicle Auto bearing registration No. CG 04 T 2386 was insured by him as the policy No.285100/31/09/6300004699 for the period 16-12-2009 to 15-12-2010.
3. In brief, case of the appellant is that on 25-2-2010 at about 6 pm near Sirsa Gate, Bhilai-3, respondent No. 1 driving the offending vehicle rashly and negligently dashed the appellant. He suffered 18% permanent disability. The owner of the offending vehicle was respondent No.2.
4. Respondents No.1 & 2 did not file written statement and became ex parte before the Tribunal.
5. In brief, the case of the respondent No.3 is that claim of the appellant is exaggerated.
6. After conclusion of the trial, the tribunal passed the aforesaid award. Being aggrieved, the appellant has preferred this appeal.
7. Counsel for the appellant vehemently argued that his receipts of medical bills have been wrongly disallowed by the tribunal. For nutritious food Rs.50/- per day only has been allowed, which is not adequate. Thus, the amount of award may be suitably enhanced.
8. None appears on behalf of the Respondents No.1 & 2.
9. Counsel for Respondent No.3-Insurance Company argued that the awarded amount is just and sufficient, hence does not call for any interference by this Court.
10. **Point for determination:-**

There are following points for determination in the case :-

- (i) Whether the awarded amount Rs.1,56,469/- may be enhanced looking to the facts and circumstances of the case?
- (ii) Relief and costs.

**Point for determination No. 1 : findings with reasons:-**

11.The Claims Tribunal has disallowed the following medical bills:-

| Sl.No. | Exhibit-P- | Amount |
|--------|------------|--------|
| 1.     | 9          | 93.00  |
| 2.     | 10         | 944.00 |
| 3.     | 11         | 10,000 |
| 4.     | 12         | 616.00 |
| 5.     | 13         | 30.00  |
| 6.     | 15         | 241.00 |
| 7.     | 17         | 151.00 |
| 8.     | 18         | 150.00 |
| 9.     | 19         | 100.00 |
| 10.    | 21         | 52.00  |
| 11.    | 23         | 39.00  |
| 12.    | 25         | 35.00  |
| 13.    | 26         | 40.00  |
| 14.    | 28         | 31.00  |
| 15.    | 30         | 143.00 |
| 16.    | 32         | 175.00 |
| 17.    | 34         | 324.00 |
| 18.    | 36         | 437.00 |
| 19.    | 38         | 15.00  |
| 20.    | 39         | 40.00  |
| 21.    | 41         | 389.00 |
| 22.    | 43         | 30.00  |
| 23.    | 45         | 131.00 |
| 24.    | 47         | 305.00 |
| 25.    | 49         | 238.00 |
| 26.    | 51         | 305.00 |
| 27.    | 53         | 321.00 |
| 28.    | 55         | 466.00 |
| 29.    | 57         | 377.00 |
| 30.    | 58         | 94.00  |
| 31.    | 59         | 99.00  |
| 32.    | 60         | 184.00 |

|       |     |                                    |
|-------|-----|------------------------------------|
| 33.   | 61  | 495.40                             |
| 34.   | 62  | 247.70                             |
| 35.   | 63  | 156.00                             |
| 36.   | 64  | 975.00                             |
| 37.   | 65  | 1,386.00                           |
| 38.   | 66  | 2,800.00                           |
| 39.   | 67  | 500.00                             |
| 40.   | 68  | 60.00                              |
| 41.   | 69  | 60.00                              |
| 42.   | 80  | 10,000.00                          |
| 43.   | 81  | 15,000.00                          |
| 44.   | 83  | 1,800.00                           |
| 45.   | 84  | 200.00                             |
| 46.   | 85  | 70.00                              |
| 47.   | 86  | 262.79                             |
| 48.   | 87  | 17.68                              |
| 49.   | 88  | 303.76                             |
| 50.   | 89  | 34.00                              |
| 51.   | 90  | 50.16                              |
| 52.   | 91  | 117.20                             |
| 53.   | 92  | 317.84                             |
| 54.   | 93  | 20.16                              |
| 55.   | 94  | 580.54                             |
| 56.   | 95  | 19.78                              |
| 57.   | 97  | 57,359.00                          |
| 58.   | 101 | 600.00                             |
| Total |     | 1,10,028.01<br><b>~1,10,028.00</b> |

12. In the opinion of this Court, the Tribunal has wrongly disallowed the aforesaid bills. Thus, this Court allows the aforesaid bills an amount of Rs.1,10,028/-. The Tribunal has already allowed bill Ex.P-7 amounting to Rs.33,669/-.

13. Looking to the facts and circumstances of the case, this Court finds that the appellant is entitled for an amount of Rs.1,10,028/- + 33,669/- = 1,43,697.00 towards medical expenses.

14. The Claims Tribunal has awarded Rs.2,800/- for one attendant,

Rs.1,400/- for nutritious diet, Rs. 2,000/- for going to further treatment, Rs.8800/- for loss of income, Rs.2,000/- for pains and suffering, applying formula  $\text{Rs.3,000/- (per month income)} \times 12 \times 16 \text{ (multiplier)} \times 18/100 \text{ (permanent disability)} = \text{Rs.1,03,680/-}$  towards future prospects. The appellant is not entitled for any more amount in these heads, which have already awarded by the Tribunal.

15. Looking to the above mentioned facts and circumstances of the case, this Court finds that the appellant is entitled to get Rs. 1,43,697.00 + 1,400+ 2,000+ 8,800 + 2,000 + 1,03,680, total Rs.2,61,577/-. Thus, the awarded amount of Rs.1,56,469/- deserves to be enhanced up to Rs. 2,61,577.

**Point for determination No. 2 : findings with reasons :-**

16. The appellant has been partly succeeded to prove his appeal. Consequently, the appeal is allowed in part and the awarded amount Rs. Rs.1,56,469/- is enhanced to Rs. 2,61,577/- (Two lakhs sixty one thousand five hundred and seventy seven only). The other conditions of the award shall remain intact.
17. The respondents shall bear their own costs as well as costs of appellant.

Sd/-

**(Sharad Kumar Gupta)**

Judge