

HIGH COURT OF CHHATTISGARH, BILASPUR

Order reserved on 13-7-2018

Order passed on 24-7-2018

MAC No. 755 of 2013

- The Oriental Insurance Comp. Ltd. Thru- Divisional Manager, Divisional Office-1, Raipur Kachari Chowk, Madina Manzil, Raipur, Tah. And Distt. Raipur C.G., Chhattisgarh

---- Appellant

Versus

1. Nirmankar Patel S/o Nandu Patel Aged About 35 Years R/o Village And Post- Rambhata Chanat, P.S. Basna, Distt. Mahasamund C.G., Chhattisgarh
2. Shankar Lal Bhoi S/o Makardhwaj Bhoi Aged About 40 Years R/o Baitari, P.S. Basna, Distt. Mahasamund C.G., District : Mahasamund, Chhattisgarh
3. Puranchand Pradhan S/o Makhan Pradhan Aged About 60 Years R/o Tala, P.S. Basna, Distt. Mahasamund C.G., District : Mahasamund, Chhattisgarh

---- Respondents

For appellant	:	Mrs. Chitra Shrivastava, Advocate.
For respondents	:	None

SB: Hon'ble Shri Justice Ram Prasanna Sharma

CAV Order

1. This appeal is preferred under Section 173 of the Motor Vehicle Act, 1988 (For short, "the Act, 1988") against the award dated 8-5-2013 passed by the Additional Motor Accident Claims Tribunal (for short, "the Tribunal") Mahasamund (CG) in Claim Case No.135 of 2008 wherein the said Tribunal awarded a compensation of Rs.11,50,000/- on account of permanent disability to respondent No.1 who sustained the same in a motor accident on 14-2-2008.

2. As per the claimant/respondent, when he was standing in a place of village Barekel, at the same time, respondent No.2 by driving the vehicle Tractor-Trolley bearing registration No. CG 06-A-4522 & 4523 rashly and negligently dashed the claimant due to which the claimant suffered permanent dis-figuration on face, lost vision of left eye and suffered paralysis on left hand.
3. Learned counsel appearing for the appellant would submit that the Tribunal committed error by not assessing functional disability in relation to whole body occurred to respondent No.1 and without conducting proper enquiry as laid down in Rule 226 of Chhattisgarh Motor Vehicle Rules, 1994, awarded compensation which is not fitness of the procedure. (See: **Pratap Narain Singh Deo Vs. Shrinivas Sabata and another**, reported in AIR 1976 SC 222, **National Insurance Co. Ltd vs. Mubasir Ahmed and another**, reported in (2007) 2 SCC 349, **Orient gal Insurance Co. Ltd vs. Mohd. Nasir & another** , reported in 2009 AIR SCW 3717 and **Palraj vs. Divisional Controller NEKRTC**, reported in 2010 AIR SCW).
4. In view of this Court, the finding of the Tribunal is based on the statement of Dr. Srikant Shukla (AW/3) who is an Eye-Surgeon. As per version of this witness, left eye of the respondent No.1 has without vision and there was paralysis in left side of face and there was permanent disability of eye and upper limb. Again, Dr.

Siddheshwar Prasad (AW/4), deposed that he found 100% permanent disability in left hand of respondent No.1 which is caused due to accident and that part was paralysed. The Insurance Company led no evidence in rebuttal of both the medical experts and, therefore, in absence of any contrary opinion, the trial Court is right in recoding the finding that the respondent No.1 suffered permanent disability of eye, face and left hand. Awarding of Rs.3,00,000/- for permanent disability of eye, Rs.2,00,000/- for permanent disability of face and Rs.1,00,000/- for permanent disability of left hand is based on various pronouncements and there was no requirement of any other enquiry for the said purpose. Awarding of Rs.6,00,000/- is based on authorities and same is not liable to be interfered while invoking jurisdiction of the appeal.

5. It is further contended by the appellant/ Insurance Company that awarding of Rs.5,00,000/- under the head of medical expenses is not just and proper.
6. In view of this Court, respondent No.1 submitted bills vide Ex.P/10 to P/255. The Tribunal assessed that the medical bill amount is near about Rs.5,00,000/- which is direct substantial loss to respondent No.1 after the incident. The tribunal has not exercised its discretion , but awarded the amount on the basis of bills and even the Tribunal has not awarded any sum on account of future treatment. Awarding of Rs. 5,00,000/- on account of treatment is based on medical bills

and medical experts' opinion and the same is not liable to be disturbed without reason.

7. It is further contended on behalf of the appellant/Insurance Company that Rs.50,000/- was again awarded without giving any convincing reason.
8. In view of this Court, the Tribunal awarded Rs.50,000/- on account of pain and suffering, transport and special diet. The amount so assessed cannot be termed on higher side looking to long treatment of respondent No.1 for months together. In all, the Tribunal has awarded Rs.11,50,000/- and looking to the oral and documentary evidence adduced by the claimant which is not rebutted by the appellant, the compensation awarded by the Tribunal cannot be termed as unjust.
9. Considering all the facts and material available on record, this Court is of the opinion that the case laws cited by learned counsel for the appellant are distinguishable from the facts of the present case. On overall assessment, this Court has no reason to disturb the finding arrived at by the Tribunal.
10. Accordingly, the appeal is liable to be and is hereby dismissed.

Sd/-

(Ram Prasanna Sharma)
JUDGE

Raju