

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 975 of 2018**Judgment reserved on : 03.08.2018Judgment delivered on : 09.08.2018

Avi Kumar S/o Shri Udairam Saitode, Aged About 12 Years Through His Legal Friend & Natural Guardian (Father) Shri Udairam Saitode, S/o Vedram Saitode, R/o Gadhabhata, Police Station Bilaigarh, District Balodabazar-Bhatapara (C.G.)

---- Appellant**Versus**

1. Sakir Ali S/o Abaad Ali, Aged About 48 Years R/o Ward No. 32, Behind D.P. Vipra College (House of Ayub Khan), Tikrapara, Bilaspur, District Bilaspur (C.G.) (Driver of offending Vehicle No. CG10-G-0860).
2. Sudhir Singh, S/o Mata Baksh Singh, Aged About 45 Years R/o Amlipara Street No. 2, Old Bus Stand, Bilaspur, District Bilaspur (C.G.) (Owner of offending Vehicle No. CG10-G-0860).
3. The New India Insurance Company Limited, 2nd Floor, UTI Building, Rama Trade Centre, Rajeev Plaza, Bilaspur, District Bilaspur (C.G.) (Insurer of offending Vehicle No. CG10-A-0860)

---- Respondents

For Appellant	:	Ms. Supriya Upasane, Advocate.
For Respondent No. 3	:	Mr. Pankaj Agrawal, Advocate.

Hon'ble Shri Justice Ram Prasanna Sharma**CAV ORDER**

1. This appeal is preferred under Section 173 of the Motor Vehicles Act, 1988 against the award dated 12.10.2017 passed by learned Motor Accident Claims Tribunal, District- Baloda Bazar (C.G.) in Claim Case No. 87/2016 wherein, the said tribunal awarded a sum of Rs. 4,53,981/- to the appellant on account of disability caused due to motor accident dated 15.07.2016.
2. As per the claim petition, the appellant was going to bath from his house at

about 8.00 a.m. and when he reached near Ghatmadwa, the bus bearing registration No. CG10-G-0860 dashed the appellant as the driver of the said vehicle (respondent No. 1) was driving the vehicle negligently. On account of the said accident, his left leg was injured and amputated that caused 50% disability. He filed a claim petition before the tribunal. After hearing both sides, the tribunal awarded the compensation as mentioned above.

3. Learned counsel for the appellant submits as under:-

- (i) That the tribunal has not awarded for loss of profession and loss of social life. Again, the tribunal has not awarded for loss of future treatment and future conveyance.
- (ii) The tribunal awarded under the head of conveyance and special diet is too meager to be sustained in law.
- (iii) The tribunal has not awarded any sum on account of loss of income.
- (iv) The rate of interest should be 12% per annum in place of 9%.

4. On the other hand, learned counsel for respondent No. 3/ Insurance Company submits that the passed award is just and proper and not liable to be interfered with invoking jurisdiction of the appeal.

5. Admittedly, the tribunal has not awarded any sum on account of loss of profession/income. At the time of incident, the appellant aged 12 years and his services to the family can be assessed as notional income. Taking into consideration notional income at the rate of Rs. 100/- per day it comes out to Rs. 3000/- per month and Rs. 36,000/- per year.

6. Looking to the report of medical expert, disability was 50% and therefore, loss of yearly income can be calculated as Rs. 18,000/- if multiplier of 15 is applied looking to the age, total amount of loss of income, comes to Rs. 2,70,000/-. Rs. 50,000/- is further awarded for future treatment and future

conveyance. As the interest awarded by the tribunal is just, needs no interference of this Court. This additional sum of Rs. 3,20,000/- be added in the award.

7. In view of the above, the appeal is partly allowed. Award is passed in favour of the appellant and against the respondent No. 3/Insurance Company and the same is modified as under:-

- (i) The respondent No. 3/ Insurance Company shall pay Rs. 7,73,981/- to the appellant in place of what is awarded by the tribunal.
- (ii) Other part of the award shall remain unchanged.

Sd/-
(Ram Prasanna Sharma)
Judge