

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MAC No. 330 of 2014

- Ram Milon Yadav, S/o Mutur Yadav, Aged About 40 Years, R/o J.P. Nagar, Kumharpara, Near Sulabh, Camp-2, Bhilai, Thana-Chhawani, Tah. And Distt. Durg, Chhattisgarh

---- Petitioner

Versus

1. Khilawan Ram Sahu, S/o Lomas Ram Sahu Aged About 22 Years R/o Ward No. 22, Camp-1, Pragati Nagar, Chhawani, Bhilai, Tah. And Distt. Durg, Chhattisgarh
2. K. Thamous S/o K. Mariyanna Aged About 28 Years R/o Azad Ward Camp-1, Bhilai, Tah. And District : Durg, Chhattisgarh
3. Manager S/o Bajaj Alliance General Insu.Co.Ltd., Main Office- G.E. Plaza, Airport Road, Wardha, Pune, Maharastra, 411006, Local Office- Power House, Bhilai, District : Durg, Chhattisgarh
4. D. Substeen Rao S/o D. Rajarao R/o Sonia Gandhi Nagar, Zone-1, Kursipar, Bhilai, Tah. And District : Durg, Chhattisgarh

---- Respondent

For Appellants	:	Shri Viprasen Agrawal, Adv.
For Respondents 1&2	:	None
For Respondent No.3	:	Shri Ghanshyam Patel, Advocate

Hon'ble Smt Justice Rajani Dubey

Order On Board

13/12/2018

1. This appeal arises out of the award dated 10.05.2012 passed by Motor Accident Claims Tribunal (for short the "Tribunal"), Durg (C.G.), in Claim Case No.04/2010 awarding a compensation of Rs.30,580/- in favour of the appellant/claimant with interest at the rate of 7% per annum.
2. Facts of the case in brief are that on 19.05.2009 when appellant/claimant was going on by road side on foot, at the

same time, the offending vehicle minidoor No. CG 07 T/1459, which was being driven by respondent No.1 rashly and negligently, came and dashed him, as a result of which, he sustained grievous injuries on head and left ear. The appellant/claimant was hospitalized in Sector 9 from 20.05.2009, he suffered 60 decibel hearing loss. A claim case was filed by the appellant/claimant claiming compensation of Rs. 2,25,000/- (inter alia) pleading after the accident, he was taken to Sector 9 hospital where he was treated and his left ear audiological evaluation was done in which 60 decibel hearing loss was noticed. It has been further pleaded that due to the said accident, the claimant is unable to perform his day-to-day work and there is no downfall in his income.

Respondent/insurance company contested the claim denying the claim of the claimant, however, the Tribunal awarded compensation of Rs.35,580/- in favour of the claimant/appellant.

3. Counsel for the appellant/claimant submits that the compensation awarded by the Tribunal in all the heads is on the lower side and needs to be enhanced suitably. The Tribunal has committed an error in assessing the permanent disability of the claimant. He further submits that the Tribunal has erred in not awarded any amount in other different heads.

4. Learned counsel for the Respondent No.3 supports the award impugned and submit that the compensation awarded

by the Tribunal is just and proper.

5. Heard counsel for the parties and perused the material available on record.

6. Admittedly, the insurance company has not preferred any appeal and thus it can be held that they have not disputed the accident and injuries suffered by the claimant. Further amount awarded by the Tribunal under the head transportation and special diet is on the lower side. Once the insurance company did not dispute the accident and the injuries suffered by the appellant/claimant; the claimant/appellant is entitled for compensation under the head transportation, special diet and pain and suffering as he has claimed in the present appeal.

7. Thus, keeping the view in all the above things, this Court is of the view that the amount awarded by the Claims Tribunal is on lower side and requires reconsideration. The claimant/appellant is entitled for compensation in the following manner :-

Head	Amount awarded	Amount enhanced
For suffering grievous injuries	Nil	Rs.50,000/-
For Medical Expenses	Rs. 5280/-	Nil
For Coveyance	Rs.14,00/-	Rs.5,000/-
For Special Diet	Rs.1400/-	Rs.10,000/-
For Expenses on medicine	Rs.3,500/-	Nil
For transportation	Rs.1000/-	Rs.5,000/-

For loss of income	Rs.3,000/-	Rs.10,000/-
For future treatment	Rs.5,000/-	Nil
For pain and suffering	Rs.10,000/-	Rs.20,000/-
	Total	Rs.1,00,000/-

8. Appeal is thus allowed in part with the modification in the award impugned as indicated above.

**Sd/-
(Rajani Dubey)
Judge**

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