

HIGH COURT OF CHHATTISGARH, BILASPUR

MAC No. 871 of 2014

- Sushma Kujur W/o Bilash Kujur Aged About 42 Years, occupation service, R/o Pathak Colony, Jashpur Nagar, Distt. Jashpur.

---- Appellant

Versus

1. Salik Ram Pradhan S/o Gundra Ram, caste Uraon, Aged About 30 Years, occupation agriculture, R/o Village Chadhiya, Tah. And Distt. Jashpur.
2. Vinod Kumar Bhagat S/o Kamlesh Bhagat Aged About 22 Years, occupation driver, R/o Chadhiya, Tah. And Distt. Jashpur C.G.
3. Santosh Kumar Mishra S/o Late Nand Kishore Aged About 36 Years, caste bramhan, R/o Sangam Chowk, Darbari Toli, Jashpur Nagar, Distt. Jashpur C.G.

---- Respondents

For Appellant	:	Shri Qamrul Aziz, Advocate.
For Respondent No.1	:	Shri Sukhnath Paikra, Advocate on behalf of Shri AK Prasad, Advocate.
For Respondent No.2	:	Shri Pragalp Sharma, Advocate.
For Respondent No.3	:	None though served.

MAC No. 1172 of 2014

- Salik Ram Pradhan S/o Gundara Ram Aged About 30 Years, occupation Farmer, R/o Village Chadiya, Tah. Jashpur, Distt. Jashpur C.G., Civil and Revenue Distt. Jashpur, Chhattisgarh

---- Appellant

Claimant

Versus

1. Sushma Kujur W/o Bilas Kujur Aged About 42 Years, caste Uraon, R/o Patak Colony, Jashpur Nagar, Distt. Jashpur Nagar C.G.
2. Vinod Kumar Bhagat S/o Kamlesh Bhagat Aged About 22 Years, occupation Driver, R/o Village Chadiya, Tah. Jashpur, Distt.

Jashpur C.G.

3. Santosh Kumar Mishra S/o Late Nand Kishor Aged About 36 Years, Caste Baramhan, R/o Sangam Chowk, Darbari Tola, Jashpur Nagar, Distt. Jashpur C.G.

---- Respondents

For Appellant	:	Shri Sukhnath Paikra, Advocate.
For Respondent No.1	:	Shri Qamrul Aziz, Advocate.
For Respondent No.2	:	Shri Pragalp Sharma, Advocate.
For Respondent No.3	:	None though served.

Hon'ble Shri Gautam Chourdiya, J

Judgment On Board

26/11/2018

As both these appeals arise out of the award dated 31.7.2014 passed by Additional Motor Accidents Claims Tribunal (FTC), Jashpur, Distt. Jashpur in Claim Case No.08/2013, they are being disposed of by this common judgment.

02. As per averments made in the claim petition, on 4.10.2011 injured claimant Salik Ram Pradhan was travelling in vehicle Marshal bearing No. CG 14-2042 which was being driven by non-applicant No.2 Vinod Kumar Bhagat in a rash and negligent manner, as a result of which the vehicle dashed against a tree and the claimant suffered grievous injuries on his hands, legs and chest and he also suffered fracture of femur bone of left leg resulting in 50% permanent disability.

03. On claim petition being filed by the claimant under Section 166 of the Motor Vehicles Act, the Tribunal considering the overall evidence on record by the impugned award granted a total compensation of Rs.2,03,600/- in favour of the claimant, fastening the liability on non-applicants No. 1 & 2/owner and driver of the offending vehicle jointly and severally with interest @ 6% p.a. from the date of application till realization.

04. **MAC No.871/2014**: Learned counsel for the appellant submits

that as per Ex. NA-1 i.e. affidavit of the appellant Sushma Kujuar, it is clear that the said affidavit was executed by the appellant to the effect that the offending vehicle was sold out to Santosh Kumar Mishra/non-applicant No.3 prior to the accident and therefore, liability, if any, is of non-applicant No.3 Santosh Kumar Mishra and not of the appellant.

05. Having heard learned counsel for the appellant and perused the entire evidence available on record, it is seen that Ex.NA-1 is only affidavit of appellant Sushma Kujur, owner of the offending vehicle. It is not an agreement between the parties. Furthermore, appellant Sushma Kujur has already admitted in her deposition that she was registered owner of the offending vehicle at the time of accident, charge sheet was filed by the police against her for vehicle being driven without insurance; she admitted her guilt and paid fine amount imposed by the criminal Court and thereafter, she obtained custody of the said vehicle in the capacity of registered owner. In this view of the matter, merely on the basis of Ex.NA-1, it would not be justifiable to impose liability on non-applicant No.3 Santosh Kumar Mishra. The Tribunal has committed no illegality in fastening liability on the appellant/owner along with driver/non-applicant No.2 Vinod Kumar.

06. **MAC No.1172/2014**: Learned counsel for the appellant/claimant submits that the Tribunal has erred in assessing income of the claimant as also not considering the permanent disability suffered by the claimant. The Tribunal has also not awarded sufficient amount towards medical expenses, attendant, nutritional diets, mental agony etc. and therefore, the compensation is required to be enhanced suitably.

07. On the other hand, counsel for the respondent submit that the award impugned insofar as it relates to quantum of compensation is just and proper and needs no interference by this Court.

08. Having heard learned counsel for the parties and gone through the material available on record, this Court finds that the Tribunal has granted sufficient and reasonable amount towards loss of earning capacity and other conventional heads. However, the Tribunal did not consider the document of Ex.A/12 for the purpose of medical expenses

whereas considering the facts and circumstances of the case, the nature and extent of injury suffered by the claimant, the medical evidence adduced by him, the said document cannot be said to be forged or otherwise, rather it appears to be a genuine one. Therefore, this Court is of the opinion that the claimant is entitled for an additional amount of Rs.20,700/- towards medical expenses as per Ex.A/12 with interest @ 6% per annum from the date of application till realization.

09. In the result:

- MAC No.871/2014 preferred by the appellant/owner being without any substance is hereby dismissed.
- MAC No.1172/2014 preferred by the appellant/claimant is allowed in part. The impugned award is hereby modified to the extent that the claimant is held entitled for an additional compensation of Rs.20,700/- with interest @ 6% per annum from the date of application till realization. However, rest of the conditions of the impugned award shall remain intact.

Sd/

(Gautam Chourdiya)

Judge