

HIGH COURT OF CHHATTISGARH, BILASPUR

MAC No. 1247 of 2018

- Salik Ram Pandey S/o Late Shri J.P. Pandey Aged About 40 Years R/o Village Ram Nagar Bhilai, Near Shakuntala School, Police Station Supela, District- Durg, Chhattisgarh..... (Claimant),

---- Appellant

Versus

1. Jitendra Kumar Sukhdev S/o Late Seva Ram Sukhdev Aged About 48 Years R/o Village Tikari, Police Station Arjunda, District- Balod, Chhattisgarh, (Driver Of The Car No. CG-04, H-5371)
2. United India Insurance Company Through The Branch Managar, Branch Office, Near Gurudwara, Station Road Durg, District- Durg, Chhattisgarh.(Insurer Of The Car No. CG-04, H-5371).

---- Respondent

For Appellant	:	Shri P. Dhurandhar, Advocate.
For Respondent No.1	:	None.
For Respondent No.2	:	Shri Ratan Pusty, Advocate.

Hon'ble Shri Gautam Chourdiya, J

Judgment On Board

28/11/2018

This appeal has been filed by the claimant/injured against the award dated 17.5.2018 passed by II Additional Motor Accident Claims Tribunal to the First Additional Motor Accident Claims Tribunal, Durg in Claim Case No.472/2016 whereby the Tribunal has awarded Rs.8,28,076/- as compensation in favour of the claimant with interest @ 7% p.a. from the date of application till realization.

02. As the claimant suffered grievous injuries in an accident occurred on 13.11.2015 due to rash and negligent driving of offending vehicle car bearing No. CG 04 H 5321 by non-applicant No.1, he filed a claim

petition under Section 166 of the Motor Vehicles Act. Learned Tribunal considering the evidence led by both the parties, granted compensation as mentioned above.

03. Learned counsel for the appellant submits that the Tribunal did not consider the salary certificate produced and proved by the claimant of Ex.P/53 as also the fact that as the claimant has suffered 29% permanent disability on account of multiple fractures, he would be required to incur medical expenses as detailed in Ex.P/52. However, the Tribunal has awarded only Rs. 1 lacs towards future medical treatment. Therefore, the amount of compensation may be enhanced suitably.

04. On the other hand, learned counsel for the respondent/insurance company vehemently opposes the above submission and argues that the Tribunal has already awarded sufficient amount to the claimant even towards medical expenses and permanent disability without there being any evidence of the treating doctor and as such, no enhancement is required to be made by this Court. Further he submits that award of future medical expenses is subject to specific medical evidence of doctor.

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

06. Considering the pleadings of the parties and the evidence led by them, the income assessed by the Tribunal of the claimant at Rs.6,000/- per month cannot be faulted with. Though the claimant has produced one certificate Ex.P/53 showing his salary as Rs.12,000/-, however, only on that basis, without there being any other cogent evidence in this regard or record of the concerned factory where the claimant is claiming to be working, his income cannot be taken as Rs.12,000/-. Definitely, the claimant has proved Ex.P/52 which relates to expenses to be incurred by him in his future medical treatment. Thus, considering the nature and extent of injuries suffered by the claimant, the permanent disability to the extent of 29% as per Ex.P/51, the fact that the claimant suffered fractures in leg and hand, this Court

is of the opinion that the amount of Rs. 1 lac awarded by the Tribunal towards future medical expenses is on the lower side and can safely be enhanced to Rs.1.50 lacs.

07. In the result, the appeal is allowed in part. The impugned award is hereby modified to the extent that the appellant/claimant shall be entitled for additional compensation of Rs.50,000/- towards future medical expenses with interest @ 7% p.a. from the date of application till realization. However, rest of the conditions of the impugned award shall remain intact.

Sd/

(Gautam Chourdiya)

Judge