

HIGH COURT OF CHHATTISGARH, BILASPUR

MAC No. 1336 of 2018

- Avinash Bhatpahari S/o Shri Ashok Kumar Aged About 34 Years R/o Village Junwani, Police Station Palari, District Baloda Bazar Chhattisgarh.

---- Appellant

Versus

1. Ashwani Adil S/o Santu Ram Aged About 36 Years R/o Village Karmadi, Police Station Arang, District Raipur Chhattisgarh. (Driver Of Offending Vehicle Motorcycle Bearing Registration No. C G 04 - Ks – 8611)
2. Dileshwar Patel S/o Bisanta Patel Aged About 36 Years R/o Village Karmadi, Police Station Arang, District Raipur Chhattisgarh. (Owner Of Offending Vehicle Motorcycle Bearing Registration No. C G 04 - Ks - 8611)

---- Respondents

For Appellant	:	Shri CR Sahu, Advocate.
For Respondents	:	Shri Rekhraj Baghel, 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 20th June, 2018 passed by 6th Additional Motor Accident Claims Tribunal, Raipur in Claim Case No.396/2017 whereby the Tribunal has awarded Rs.1,14,500/- as compensation in favour of the claimant with interest @ 7.5% p.a. from the date of application till realization.

02. As the claimant suffered grievous injuries in an accident occurred on 3.4.2017 due to rash and negligent driving of offending vehicle motorcycle bearing No. CG 04 KS 8611 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 rightly consider the income of the claimant and also granted amount on the lower side towards medical treatment. Therefore, the amount of compensation may be enhanced suitably.

04. On the other hand, learned counsel for the respondents submits that the Tribunal considering all the relevant aspects of the matter and the evidence available on record, has rightly granted compensation in favour of the claimant, which needs no interference by this Court.

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. However, considering the x-ray report (Ex.P/9) which shows that the claimant suffered fracture of tibia and fibula with nail and screw in tibia; Ex.P/10 to P/37 showing continuous treatment of the claimant, this Court is of the opinion that on account of injuries suffered by the claimant he would have not been in position to do his work at least for three months. However, the Tribunal has awarded towards loss of earning for only one month @ Rs.6,000/-. Thus, the claimant is entitled for a sum of Rs.12,000/- for loss of two months' income on account of injury suffered by him.

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.12,000/- towards loss of earning for two months with interest @ 7.5% 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