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HIGH COURT OF CHHATTISGARH, BILASPUR

Miscellaneous Appeal (Civil) No. 342 of 2014

- Jeevanlal Sahu, S/o Mahettar Sahu, aged about 28 years, R/o Village Bilaspur, Post Office & Police Station- Sarsinwa, Tahsil- Bilaigarh, District Raipur (C.G.)

---- Appellant/Claimant

Versus

- Choturam Nirala, S/o Nammuram Nirala, aged about 40 years, R/o Village Kodwa, Post Office & Police Station- Sarsinwa, Tahsil Bilaigarh, District Raipur (C.G.)
(Driver and registered owner of Vehicle Motorcycle bearing registration No. C.G.-04/DL/8445)

---- Respondent/Non-applicant

For Appellant	:	Shri Shivendu Pandya, Advocate
For Respondent	:	Shri Amiyakant Tiwari, Advocate

Hon'ble Shri Justice Gautam Chourdiya, J

Judgment on Board

07.03.2019

1. The present is an appeal under Section 173 of the Motor Vehicles Act, 1988 preferred by the injured- Claimant/Appellant, seeking enhancement of the compensation awarded by the Motor Accident Claims Tribunal, Balodabazar, District Balodabazar (C.G.) vide award dated 20.12.2013 passed in M.A.C. No. 20 of 2013.

2. Facts of the case, in brief, are that on 20.02.2011 the Claimant/Appellant was coming from Village- Tata to Village- Bilaspur, when he reached near Village- Amraiya, Respondent, rider-cum-owner of the offending motorcycle bearing registration No. CG-04/DL/8445, riding the said motorcycle in a rash and negligent manner, dashed the Appellant. As a result thereof, the Appellant sustained injuries on his head, face and left eye.

3. The learned Tribunal, in the impugned award has awarded a compensation of Rs.79,000/- in favour of the Appellant/Claimant with interest @ 6% per annum from the date of award till its realization and has fastened liability on the Respondent to pay compensation to the Claimant.

4. Learned counsel for the Appellant submits that the Appellant was a mason and was earning Rs.15,000/- per month. He further submits that due to accident, the Appellant has completely lost vision in left eye and not able to do the work of mason in proper manner. He also submits that the Tribunal grossly erred in not granting any amount under other permissible heads looking to the condition of the Appellant. Therefore, he prays for enhancement of compensation.

5. On the other hand, learned counsel for the Respondent supports the impugned award and submits that the Tribunal considering all the relevant aspects of the matter has rightly awarded compensation which needs no interference by this Court.

6. I have heard the learned counsel appearing for the parties and perused the impugned award including the records of claim petition.

7. Considering the facts and circumstances of the case, the oral and documentary evidence adduced by the parties, this Court is of the opinion that the Tribunal was justified in awarding Rs.9,000/- towards loss of earning for three months @ Rs.3,000/- per month and Rs.10,000/- towards pain and suffering. However, the amount of Rs.60,000/- awarded towards medical expenses, special diet and conveyance appears to be a bit on the lower side and considering the period of hospitalization from 21.02.2011 to 05.03.2011 in Ramkrishna Care Hospital at Raipur, fact that he must have incurred expenses towards conveyance as also towards attendant. Therefore, this Court is of the view that in the interest of justice will be safeguard by providing lump sum additional compensation of Rs.5,000/- towards conveyance and attendant.

8. Accordingly, the present appeal is partly allowed and the Appellant/Claimant

is hereby awarded additional compensation amount of Rs.5,000/- alongwith interest @ 6% per annum from the date of award till its realization. However, rest of the conditions of the impugned award shall remain intact.

9. No order as to costs.

Sd/-
(Gautam Chourdiya)
Judge

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