

HIGH COURT OF CHHATTISGARH, BILASPUR

MAC No. 188 of 2019

1. Chudamani @ Raju Patel S/o Shri Chhabiram Patel Aged About 20 Years R/o Village Nawagaon, Thana Patewa, Tahsil, Civil And Revenue District Mahasamund, Chhattisgarh. (Now Attained The Age Of Majority), Claimant, District Mahasamund, Chhattisgarh

---- Appellant/Claimant

Versus

1. Vidyasagar Sahu S/o Shri Mun Janu Sahu R/o Village Jhalap, Thana Patewa Tahsil Civil And Revenue District Mahasamund, Chhattisgarh. Driver of The Maruti Van No. C.G. 04-H D-5833., District Mahasamund, Chhattisgarh
2. Ashok Kumar Sagore S/o Shri Kishan Lal Sagore R/o Village Jhalap, Thana Patewa, Tahsil Civil And Revenue District Mahasamund, Chhattisgarh. Owner of Maruti Van No. C. G. 04-HD-5833., District : Mahasamund, Chhattisgarh
3. Branch Manager The New India Insurance Company Limited, Branch Office Behind LIC Office Pandari Raipur, District Raipur, Chhattisgarh. Insurer Of The Maruti Van No. C. G. 04-HD- 5833., District : Raipur, Chhattisgarh

---- Respondents

For Appellant	:	Shri Sumit Shrivastava, Advocate.
For Respondent No. 3	:	Shri Qamrul Aziz, Advocate.

Hon'ble Shri Gautam Chourdiya, J

Judgment On Board

28/03/2019

- 1) This appeal is by the claimants under Section 173 of the Motor Vehicles Act, 1988 against the award dated 19/09/2018 passed by Motor Accident Claims Tribunal, Mahasamund, District Mahasamund (C.G.) in Claim Case No. 111/2017 awarding total compensation of Rs. 5,20,000/- along with 9 % interest per annum from the date of application till realization, fastening

liability on the non-applicants jointly and severally.

- 2) Being aggrieved by the award the appellant has preferred the instant appeal for enhancement under section 173 of the Motor Vehicles Act, 1988.
- 3) The factual matrix of the case is that on the date of accident on 31/10/2018, non-applicant No. 1 Vidyasagar Sahu was driving Maruti Van bearing No. CG04 HD 5833 (offending vehicle) owned by Non-applicant No. 2 Ashok Kumar Sagore and insured with Non-applicant No. 3 New India Insurance Company Limited rashly and negligently and dashed the motorcycle of the claimant, consequently the claimant sustained injury in the head, leg and other parts of the body whatever mentioned in the application under section 166 of the Motor Vehicles Act, 1988 and the learned Tribunal after hearing both the parties passed an award in favour of the claimant as mentioned above.
- 4) Learned counsel for the appellant submits that the claimant remained hospitalized from 31/10/2015 to 15/12/2015, during this period he also suffered loss of education and income as well but the Tribunal did not consider all this and therefore, the amount awarded by the Tribunal needs to be enhanced suitably.
- 5) Learned counsel for the respondent /Insurance company opposed the contention made by the claimant that although the age of claimant is 17 years but specific loss is not proved by the claimant. Therefore, compensation awarded by the learned Tribunal is just and proper and needs no interference.

- 6) Heard learned counsel for the parties and perused the material available on record.
- 7) Considering the facts and circumstances of the case, the age of the claimant, the period of his hospitalization, gravity of the injuries suffered by him, the fact that the claimant is a student and must have suffered loss of education during the period of his hospitalization, This Court is of the opinion that grant of further amount of Rs. 10,000/- towards loss of education and other incidental heads would make the compensation just and proper. Thus, the claimant is hereby awarded additional compensation of Rs. 10,000/- by the Tribunal. However, rest of the conditions of the impugned award shall remain intact.
- 8) In the result, the appeal is allowed in part with modification in the impugned award to the above extent.

-Sd/-
(Gautam Chourdiya)
Judge