

HIGH COURT OF CHHATTISGARH, BILASPUR

MAC No. 782 of 2013

- Dhanush Dhari Singh S/o Pran Singh Aged About 52 Years R/o Dhaneshpur, P.S. And Tah. Surajpur, Distt. Surguja C.G., Chhattisgarh

---- Appellant

Versus

1. Jashwant Singh S/o Rnjeet Singh @ Ranjeet Singh Aged About 46 Years, Occupation Driver, R/o Fauji Gali Ward No.1, Shivnandapur Vishrampur, P.S. Vishrampur, Tah. Surajpur, Distt. Surhuja, Chhattisgarh
2. The Oriental Insu.Co.Ltd. Thru- The Branch Manager, Branch Office- Manendragarh Road, Ambedkar Chowk, District : Surguja (Ambikapur), Chhattisgarh

---- Respondents

For Appellant	: Shri Ashok Kumar Shukla and Shri Atanu Ghosh, Advocates
For Respondent- 1	: None appears
For Respondent- 2/Insurance Company	: Shri Raj Awasthi, Advocate

Hon'ble Shri Justice Parth Prateem Sahu

Order on Board

31.01.2019

1. The appellant/injured claimant challenged impugned award dated 10.05.2013 passed by the Additional Motor Accident Claims Tribunal, Surajpur, district Surguja, Chhattisgarh (for short, 'the Tribunal') in Claim Case No.121 of 2011 wherein learned Claims Tribunal partly allowed the claim application and awarded a total compensation of Rs.75,000/- in lump-sum in an injury case.

2. Brief facts for disposal of this appeal are that on 10.10.2007 at about 4.35 pm appellant was travelling on motorcycle bearing No.CG15-CA-2756 along with his brother-in-law Valmiki Singh and going towards Ambikapur. At that relevant time, when they reached Jaynagar Bazar, one

mini truck bearing No.MP 21-C-8247 (hereafter referred to as 'offending vehicle') being driven rashly and negligently by respondent- 1, its driver, dashed motorcycle due to which the appellant sustained injuries on many parts of his body. Appellant was taken to Holy Cross Hospital, Ambikapur, where he took treatment as indoor patient for about six days. On account of injuries sustained by the appellant in the said accident, he filed a claim application claiming Rs.5,00,000/- in total on all heads mentioning therein that he sustained fracture injuries on his body and also incurred expenditure in repairing of his motorcycle. It has also been pleaded that the offending vehicle was owned and being driven by respondent- 1.

3. Respondent- 1 submitted reply to the claim application and denied all pleadings made in the claim application against him and further pleaded that appellant was a Government servant and entitled for reimbursement of all the medical expenses incurred by him for his treatment, therefore, he is not entitled for any amount of compensation.

4. Respondent- 2/Insurance Company submitted its reply separately and denied all adverse pleadings made in the claim application. It has been pleaded that on the date of accident, appellant as well as respondent- 1, driver of mini truck were not possessing a valid and effective driving licence to drive their respective vehicles and there is violation of Insurance Policy, therefore, pleaded for its exoneration from liability of payment of compensation if any, awarded by the Claims Tribunal.

5. Learned Claims Tribunal after appreciating evidence available on record, partly allowed the claim application filed by injured-appellant and while exonerating the Insurance Company from its liability of payment of compensation, held respondent- 1, driver of mini truck responsible for accident as he failed to produce driving license before the Claims Tribunal and awarded an amount of Rs.75,000/- as compensation for injuries sustained by the appellant herein.

6. Learned counsel appearing for the appellant submitted that learned Claims Tribunal erred in not considering the injury of appellant which is of permanent nature and causing permanent disability to him. Learned Claims Tribunal not awarded any amount towards it. He also submits that Claims Tribunal has not awarded reasonable amount of compensation in view of medical documents produced before it and they were not considered in appropriate manner. Insurance Company has been wrongly exonerated from its liability.

7. Per contra, learned counsel for the Insurance Company submitted that learned Claims Tribunal categorically recorded in its impugned award that driver of offending vehicle ie respondent- 1 failed to produce copy of license showing that he was authorised to drive the offending vehicle on the date of accident. He further submitted that learned Claims Tribunal awarded handsome amount towards compensation to the appellant in view of the evidence available on record that the appellant is a Government servant.

8. I have heard learned counsel for the parties and perused records. Admittedly, there is no evidence with respect to respondent- 1 having license with him on the date of accident to drive the offending vehicle and therefore, has rightly exonerated Insurance Company from its liability of payment of compensation. On the other hand, other pleadings with respect to the award on lower side and no amount has been awarded for the injuries of permanent nature, I have perused records. I do not find any major medical expenses incurred by the appellant for his treatment or the documents relating to purchase of medicines etc. Perusal of records would also show that the appellant was admitted as indoor patient only for six days ie from 10-16 October, 2017. He sustained fracture over lateral Tibia and Patellae bone. The appellant has not been examined before the Medical Board or before any doctor to diagnose that he suffered any disability of permanent nature. Even appellant not stated in specific terms before learned Claims Tribunal in his evidence that due to the injuries sustained by him, he was restrained from doing his official work for a particular period. Apart from it, undisputedly, appellant is a Government servant, employed as Forester with the State Government and is entitled for reimbursement of medical expenses incurred by him. The expenses of repairs towards motorcycle were claimed with Insurance Company of motorcycle which was allowed as admitted in evidence.

9. Looking to the overall material available on record with respect to the treatment and also considering that as the appellant is a Government servant, entitled for reimbursement of his medical expenses, in the opinion of this Court, learned Claims Tribunal awarded a reasonable

compensation of Rs.75,000/- (lump sum) in the facts and circumstances of the case.

10. In view of above, I do not find that learned Claims Tribunal committed any error in assessing the amount of compensation.

11. No other ground has been raised by learned counsel for the appellant. Appeal being devoid of any substance, is liable to be and is hereby dismissed.

12. No order as to costs.

Sd/-
(Parth Prateem Sahu)
JUDGE

padma