

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 653 of 2013**

1. Govind Prasad Shukla S/o Babaram Shukla Aged About 45 Years R/o 4E, Road No. 63, Sector-6, Bhilai, P.S. Bhilai, Tah. And Revenue Area and Distt. Durg (C.G.).

---- Appellant/Claimant**Versus**

1. Nevendra Sahu S/o Ramkhilawan Sahu Aged About 32 Years R/o Kutela Bhatha, P.S. Chowki- Jebra Shirsra, P.S. Pulagaon, Tah. And Distt. Durg (C.G.). (Vehicle Bajaj Pulsar No. CG07 LP 9877).
2. Laxmi Narayan Rajani S/o Ishwar Das Rajani R/o Smriti Nagar, Bhilai, Supela, Tah. And Distt. Durg C.G., Present R/o 7/A, Akash Ganga Extension, Supela, Bhilai, Tah. And Distt. Durg (C.G.) (Vehicle Bajaj Pulsar No. CG07 LP 9877). Vehicle Owner
3. Area Manager S/o The Oriental Insurance Company Ltd., Rajendra Park Chowk, Tah. And Distt. Durg (C.G.) (Vehicle Bajaj Pulsar No. CG07 LP 9877).

---- Respondents

For Appellant	:	Shri Vikas Shrivastava, Advocate.
For Respondent No. 3	:	Shri Sandeep Shrivastava, Advocate.

Hon'ble Shri Gautam Chourdiya, J**Judgment On Board****26/04/2019**

- 1) This appeal is preferred by the claimant under Section 173 of the Motor Vehicles Act, 1988 against the award dated 31/01/2013 passed by Vth Additional Motor Accident Claims Tribunal, Durg, District Durg (C.G.) in Claim Case No. 65/2011 awarding total compensation of Rs. 5,52,856/- with interest @ 6% per annum from the date of application till realization, fastening liability on the non-applicant No. 3.
- 2) As per claim petition on 10/01/2011 at around 01:00 PM claimant

Govind Prasad Shukla, 45 years of age, earning between Rs. 16,000 to Rs. 20,000/- per month from business of Security Service Agency, was riding his motor cycle Hero Honda and he was returning from Supela J.P. Chowk to Sector-6 Garage Road towards his home with a moderate speed. However, on the way non-applicant No. 1/Nevendra Sahu by driving Bajaj Pulsar motorcycle bearing No. CG07 LP 9877 (offending vehicle) in a rash and negligent manner dashed the motorcycle of the claimant. As a result of this accident, claimant suffered grievous injuries on his right leg, right hand and other parts of the body. Due to injury suffered by him he has become permanent disabled to the extent of 56 percent. At the time of accident the offending vehicle was owned by non-applicant No. 2 and insured with non-applicant No. 3/Insurance Company.

- 3) On claim petition being filed by the claimant injured under Section 166 of the Motor Vehicles Act, the Tribunal considering the evidence led by both the parties passed an award as mentioned above.
- 4) Learned counsel for the appellant/claimant submits as though he has raised various grounds in this memo of appeal, however, he is not pressed on those grounds and is assailing the awards on the following grounds only :-
 - i. that income of the claimant has wrongly been considered by the Tribunal as Rs. 6,000/- per month; whereas it should have been between Rs. 16,000/- to Rs. 20,000/- per month.
 - ii. that multiplier of 14 has wrongly been applied and considering the age of the claimant, it should have been 15.
 - iii. that permanent disability of the claimant has wrongly been considered by the Tribunal 25 %; whereas it should have been 56%.
 - iv. that no amount towards future prospect has been granted to the claimants.

- v. that the amount awarded under the other heads like pain and suffering, conventional heads, special died, attendant and medical treatment bills also being on the lower side deserves to be enhanced suitably.

In support of above contention, reliance has been placed on the decisions of the Hon'ble Supreme Court in the matters of ***Smt. Sarla Verma and others VS. Delhi Transport Corporation and another, (2009) 6 SCC 121*** and ***National Insurance Co. Ltd. Vs. Pranay Sethi, (2017) 16 SCC 680***.

- 5) On the other hand, learned counsel for the respondent/insurance company supports the impugned award and submits that the Tribunal considering all the relevant aspects of the matters has rightly awarded compensation which needs no interference by this Court.
- 6) No any counter appeal or cross objection is filed by the respondents as submitted by both the parties.
- 7) Heard learned counsel for the parties and perused the material available on record.
- 8) As regards income of the claimant injured, though the claimant has pleaded that the claimant was earning between Rs. 16000 to Rs. 20,000/- per month from business of Security Service Agency but no documentary evidence in support thereof has been adduced. Therefore, in these circumstances, the income assessed by learned Tribunal as Rs. 6,000/- per month is just and proper. However, the Tribunal has committed an error in not considering the permanent disability. Considering the pleading of the claimant, the disability certificate Ex. P-14 which shows that the claimant suffered 56% disability, the nature of job of the claimant in the facts and circumstances of the case it can be held that on account of the injuries the claimant suffered 30% functional disability and loss of earning capacity. Further, the Tribunal was also not justified in ignoring the future prospect of

the claimant which should have been 25% in the present case as the injured was aged about 45 years. Therefore, in view of the decisions of Hon'ble Supreme Court in *Sarla Verma and Pranay Sethi* (supra), the claimant is held entitled for compensation in the following manner:-

Sl. No.	Heads	Calculation (in rupees)
01.	Income of the claimant @ Rs 6000 per month	(Rs. 6000x12) = Rs. 72000 per annum (as awarded by the Tribunal)
02.	25 % of (i) above to be added towards future prospects.	(Rs. 72000 + 18000) = Rs. 90,000/-
03.	Loss of earning capacity @ 30%	(Rs. 90000 x 30%) = Rs. 27000 /-
04.	Multiplier of 14 to be applied	(Rs. 27000 x 14) = Rs. 3,78,000/-
05.	Loss of income for 3 months	Rs. 8,000/- (as awarded by the Tribunal)
06.	Towards Medical expenses	Rs. 2,74,856/- (as awarded by the Tribunal)
07.	Towards pain and suffering	Rs. 20,000/-
08.	Towards attendant	Rs. 8,000/- (as awarded by the Tribunal)
09.	Towards special diet	Rs. 5,000/-
10.	Towards conveyance	Rs. 5,000/-
	Total compensation	Rs. 6,98,856/-

Since the Tribunal has already awarded Rs. 5,52,856/-, after deducting the same from the above amount, the claimants are held entitled for additional compensation of Rs. 1,46,000/- with interest @ 6% per annum from the date of application till realization. However, rest of the conditions of the impugned award shall remain intact.

- 9) In the result, the appeal is allowed in part with modification in the impugned award to the above extent.

-Sd/-
(Gautam Chourdiya)
Judge