

HIGH COURT OF CHHATTISGARH, BILASPUR

MAC No. 505 of 2015

- Sanjay Singh S/o Ugraveer Singh Aged About 40 Years R/o House No. LIG-325, Padamnabhpur, In front of Natural Hospital, Durg, District Durg, Chhattisgarh

---- Appellant/claimant

Versus

1. Shravan Chouhan S/o Ram Suhel Chouhan Aged About 42 Years R/o Behind Ganesh Nagar Budhvihar, Kanhan, Tahsil Parshivni, District Nagpur, Maharashtra (Driver)
2. Harvan Chouhan S/o Ram Suhel Chouhan Aged About 42 Years R/o Behind Ganesh Nagar Budhvihar, Kanhan, Tahsil Parshivni, District Nagpur, Maharashtra, (Owner)
3. Manager National Insurance Company Limited R/o Supela Bhilai, District Durg Wrongly Mentioned As Raipur C.G. Insurance Company

---- Respondents

For Appellant	:	Shri N.K. Chatterjee, Advocate.
For Respondent Nos.1 & 2	:	None.
For Respondent No.3	:	Shri Shivendu Pandya, Advocate.

Hon'ble Shri Gautam Chourdiya, J

Judgment On Board

12/04/2019

This appeal is by the injured claimant under Section 173 of the Motor Vehicles Act, 1988 against the award 20.2.2015 passed by 4th Additional Motor Accident Claims Tribunal, Durg (CG) in Claim Case No.1671/2012 awarding total compensation of Rs.5,32,744/- with interest @ 6% per annum from the date of application till realization, fastening liability on the non-applicants jointly and severally.

02. As per claim petition, on 4.11.2011 the claimant, 40 years of age, earning Rs.10,985/- per month as Supervisor in RR Hatcheries Pvt.

Ltd. Company, after discharging his duties at 6.15 pm was returning to his house by riding his motorcycle. However, on the way, he stopped his motorcycle for having water. At that time, non-applicant No.1 Shравan Chauhan, by driving vehicle Scorpio bearing No. MH 43 K 0786, owned by non-applicant No.2 & insured with non-applicant No.3, in a rash and negligent manner, dashed the claimant as a result of which he suffered grievous injuries including fracture in right leg, for which he was operated upon, rod was inserted and his leg got shortened by two inches.

03. On claim petition being filed by the injured claimant under Section 166 of the Motor Vehicles Act, the Tribunal considering the evidence led by the parties passed an award as mentioned above.

04. Learned counsel for the appellant/claimant submits as under:

(i) that income of the claimant has wrongly been considered by the Tribunal as Rs.4,500/- per month whereas it should have been Rs.10,985/- as per salary certificate of Ex.P/145.

(ii) that no amount towards future prospect has been granted to the claimant whereas he has suffered permanent disability.

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***.

05. 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 matter has rightly awarded compensation which needs no interference by this Court.

06. Heard learned counsel for the parties and perused the material available on record.

07. As regards income of the injured claimant, though as per salary certificate of Ex.P/145, the monthly income of the claimant is

mentioned as Rs.10.985/-, but neither author of the said certificate nor any person from the company where the claimant is said to be working has been examined to prove that document. Therefore, in absence of any specific documentary evidence with regard to income of the claimant, the Tribunal was justified in assessing the same as Rs.4,500/- as per minimum wages at the relevant time. Further, considering the age of the claimant i.e. 40 years and the nature of his job, the claimant is also entitled for 25% addition to his income towards future prospect in view of decision of Hon'ble Supreme Court in *Pranay Sethi* (supra). Thus the claimant is held entitled for compensation in the following manner:

Sl. No.	Heads	Calculation (in rupees)
01.	Income of the claimant @ Rs.4,500/- month.	54,000/- per annum
02.	25% of (i) above to be added towards future prospects.	54,000 + 13,500 = 67,500/-
03.	Loss of income due to 27% functional disability	18,225/-
04.	Multiplier of 15 to be applied	2,73,375/-
05.	Towards medical expenses	2,76,044/- (as awarded by Tribunal)
06.	Towards mental agony and suffering	3,000/- (as awarded by Tribunal)
07.	Towards special diet	3,000/-(as awarded by Tribunal)
08.	Towards conveyance	5,000/- (as awarded by Tribunal)
09.	Towards attendant	20,000/- (as awarded by Tribunal)
10.	Towards repairing of vehicle	7,000/- (as awarded by Tribunal)

	Total:	5,87,419/-
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Since the Tribunal has already awarded Rs.5,32,744/-, after deducting the same from the above amount, the claimant is held entitled for additional compensation of Rs.54,675/- with interest @ 6% per annum from the date of application till realization. However, rest of the conditions of the impugned award shall remain intact.

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

Sd/

(Gautam Chourdiya)

Judge