

HIGH COURT OF CHHATTISGARH, BILASPUR

MAC No. 525 of 2013

- Jeetram Sahu S/o Late Bedram Sahu Aged About 42 Years R/o Village And Post- Vidyadeeh, P.S. Pachapedi, Tah. Masturi, Civil and Revenue Distt. Bilaspur C.G.

---- Appellant

Versus

1. Dayanand Dhiwar S/o Late Sonauram Dhiwar R/o Village Kera, P.S. And Tah. Nawagarh, Civil and Revenue Distt. Janjgir-Champa C.G. (Driver of the Bus No. CG 11/ZB/0344)
2. Ramsai Yadaw S/o Late Chhedilal Yadaw R/o Village And Post-Kharaud, P.S. And Tah. Shivrinarayan, Civil & Revenue Distt. Janjgir-Champa C.G., (Owner of the Bus No. CG 11/ZB/0344)
3. Shri Ram General Insurance Co. Ltd. Through Branch Office-E/8, E.P.I.P. Rika Industrial Area, Sitapur, Jaipur Rajasthan, (Insurer of the Bus No. CG 11/ZB/0344)

---- Respondents

For Appellant	:	Shri Anand Kesharwani, Adv.
For Respondent Nos. 1 & 2	:	None.
For Respondent No.3	:	Shri SS Rajput, Adv.

Hon'ble Shri Gautam Chourdiya, J

Judgment On Board

16/04/2019

This appeal is by the injured claimant under Section 173 of the Motor Vehicles Act, 1988 against the award 1.3.2013 passed by First Additional District, Motor Accident Claims Tribunal & Additional Sessions Judge, Bilaspur (CG) in Claim Case No.108/2011 awarding total compensation of Rs.1.55 lacs with interest @ 6% per annum from the date of claim petition till realization, fastening liability on non-applicant No.3/insurance company.

02. As per claim petition, on 25.6.2010 the claimant, 42 years of age, earning Rs.10,000/- as a plumber and hand pump operator, along with

his wife and children was going from Bilaspur to his home village by Bus bearing No.CG 11/ZB/0344. However, non-applicant No.1 Dayanand Dhiwar by driving the said vehicle in a rash and negligent manner, suddenly applied brake, as a result of which the vehicle got uncontrolled and turned turtle. On account of this, the claimant and other passengers suffered grievous injuries and one of the passengers also died. The claimant was admitted in Government Hospital, Pamgarh, from where he was referred to CIMS, Bilaspur and thereafter to Dr. Kalda Private Hospital, Raipur. Due to injuries sustained by the claimant, he became permanently disabled. At the time of accident, the offending vehicle was owned by non-applicant No.2 and insured with non-applicant No.3.

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 that though the claimant had proved the entire medical bills Ex.P/12 & P/13 amounting to Rs.1.73 lacs but the Tribunal did not consider the same only on the ground that the concerned doctor has not been examined to prove those bills. As per Exs.P/8, P/9 & P/14 to P/29, the documents relating to medical treatment, discharge tickets, admission ticket, gate pass and other bills, it is proved by the claimant that he had paid the amount of Rs.1.73 lacs to the concerned hospital but the Tribunal awarded only Rs.50,000/- towards medical expenses. He further submits that no future prospect has been granted to the claimant whereas in view of decision of the Hon'ble Supreme Court in ***National Insurance Co. Ltd. Vs. Pranay Sethi, (2017) 16 SCC 680***, considering the age of the claimant i.e. 42 years and nature of his job, the claimant is entitled for 25% addition to his annual income towards future prospect. Lastly he submits that the Tribunal has also not awarded any amount towards pain and suffering. Therefore, the amount awarded by the Tribunal may be enhanced under the above heads suitably.

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. No counter appeal has been filed by the respondents as submitted by learned counsel for the parties.

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

08. Considering the facts and circumstances of the case, the income of the claimant i.e. Rs.3000/- per month, the age of the claimant i.e. 42 years, the nature of his job i.e. plumber & hand pump mechanic, gravity of the injury, 20% functional disability of the claimant, the period of his hospitalization, the medical documents from Exs.P/8, P/9 & P/12 to P/29, keeping in view the decision of the Hon'ble Supreme Court in **Smt. Sarla Verma and others VS. Delhi Transport Corporation and another, (2009) 6 SCC 121** and **Pranay Sethi** (supra), the claimant is entitled for compensation in the following manner:

Sl. No.	Heads	Calculation (in rupees)
01.	Income of the injured claimant @ Rs.3000/- per month.	36,000/- per annum
02.	25% of (i) above to be added towards future prospects.	36,000 + 9,000 = 45,000/-
03.	20% functional disability	9,000/-
04.	Multiplier of 14 to be applied	1,26,000/-
05.	Towards medical expenses	1,73,000/-
06.	Towards special diet and attendant	5,000/-
07.	Towards pain and suffering	10,000/-
	Total:	3,14,000/-

Since the Tribunal has already awarded Rs.1.55 lacs, after deducting the same from the above amount, the claimant is held entitled for additional compensation of Rs.1.59 lacs with interest @ 6% per annum from the date of application till realization. However, rest of the conditions of the impugned award shall remain intact.

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

Sd/

(Gautam Chourdiya)

Judge