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HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 1365 of 2014**

- Akash Tandon S/o Late Krishna Kumar Tandon; aged about- 06 years; minor through the father (natural guardian) Krishna Kumar S/o Mahetter Tandon; aged about- 40 year; R/o- Sirgitti,, Bilaspur; District (Revenue & Civil)- Bilaspur (C.G.);.

---- appellant**Versus**

1. Manoj Kumar Kaushik S/o Ramanand Kaushik; aged about 27 year; R/o Village- Tilai; Police Station- Janjgir; Tahsil- Akaltara; District (Revenue & Civil- Janjgir-Champa (C.g.); (Driver of the Bolero NO. C.G. 12 D. 1652).
2. Sharda Prasad Patle S/o Sadram Patle; aged about- not known; R/o Vilage- Uрга; Post- Kudurmал, Korba; District (Revenue & Civil)- Korba (C.G.); (owner of the Bolero NO. C.G. 12 D. 1652).
3. IFFCO TOKYO INSURANCE COMPANY LIMITED; through: Branch Office- 3rd Floor, Shop No. 345-347, Lal Ganga Shopping Mal, G.I. Road Raipur; Tahsil & District (Revenue & Civil)- Raipur (C.G.); (Insurer of the Bolero No. C.G. 12D. 1652).

---- Respondents

For Appellant	: Shri Anand Keshewani, Advocate
For Respondent No. 3	: Shri Amrito Das, Advocate with Shri K. Rohan, Advocate

Hon'ble Shri Justice Gautam Chourdiya
Judgment on Board

28.03.2019

01. This appeal under Section 173 of the Motor Vehicle Act has been preferred by the claimant/injured against the award 18.09.2014 passed by 2nd Additional Member to the Court of 1st Additional Motor Accident Claims Tribunal, Bilaspur in Claim Case No. 02/2013, awarding total compensation of Rs. 16,000/-along with interest @ 7% per annum from the date of application till realization, fastening liability of payment of

compensation upon the non-applicants jointly & severally.

02. As per claim petition, on 14.07.2012, at about 8.00 am, the claimant/injured -Aakash Tandon, aged about 6 years was going to take bath in the pond near the Ambedkar Chowk Akaltara, non-applicant No. 1 by rash and negligently driving of offending vehicle (Bolero) bearing registration No. CG 12-D/1652 dashed the claimant/injured due to which he sustained grievous injuries on his both legs & back. The vehicle is owned by Non-applicant No. 2 & insured with non-applicant No. 3.

03. On claim petition being preferred by the claimant/injured through his natural guardian under Section 166 of the Motor Vehicles Act, 1988, the Tribunal considering the evidence led by both the parties passed an award as mentioned above.

04. No counter appeal has been filed by the respondent/insurance company.

05. Learned counsel for the appellant/claimant submits that though appellant has challenged on many grounds in this appeal, however he is not pressing those grounds and is confining argument only on the grounds that as per Ex. P/11 the injured sustained permanent disability to the extent of 40% but the learned Tribunal only considered 20% and not awarded any amount towards loss of earning during the period of treatment. He also submits that amount awarded towards pain & suffering is also on lowside and no amount awarded towards attendant.

06. On the other hand, learned counsel for the respondent No.3 /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.

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

08. Having heard learned counsel for the parties, as per finding of the learned Tribunal it is not disputed that the claimant sustained permanent

disability to the extent of 20% and the certificate is proved by the doctor vide Ex. P/11, therefore, in these facts & circumstances this Court finds that the learned Tribunal erred in awarding amount of Rs. 10,000/- towards loss of earning however, looking to the injury suffered by the claimant, it would be the interest of justice to award him Rs. 50,000/- in place of Rs. 10,000/- during the relevant period. Further considering the amount of Rs. 2,000/- awarded towards pain & suffering would be enhanced to Rs. 10,000/- and the claimant is also entitled for Rs. 2,000/- towards attendant & Rs. 1,000/- towards conveyance (as awarded by the Tribunal).

09. However, considering the overall facts and circumstances of the case, the nature of injuries suffered by him, the nature of his job and other relevant aspects of the matter, this Court is of the opinion that the claimant is entitled for compensation in the following manner:

Sl. No.	Heads	Awarded by the Tribunal	Calculation (in rupees)
01.	Loss of earning	Rs. 10,000/-	Rs.50,000/-
02.	Towards pain & suffering	Rs. 2,000/-	Rs. 10,000/-
03.	Towards attendant		Rs. 2,000/-
04.	Towards conveyance	Rs. 1,000/-	Rs. 1,000/- (as awarded by the Tribunal)
05.	Towards special diet	Rs. 3,000/-	Rs. 3,000/- (as awarded by the Tribunal)
06.	Total Compensation	Rs. 16,000/-	Rs. 66,000/-

10. Since the Tribunal has already awarded Rs.16,000/-, after deducting the same from the above amount, the claimants are held

entitled for additional compensation of Rs. 50,000/-. This additional amount of compensation and as also the amount awarded by the Tribunal shall carry interest @ 7% per annum from the date of claim petition till realization. The award impugned stands modified to the above extent only. However, rest of the conditions of the impugned award shall remain intact.

Amita

Sd/-
(Gautam Chourdiya)
Judge