

HIGH COURT OF CHHATTISGARH, BILASPUR

MAC No. 384 of 2014

- Bhagwat Yadav S/o Rajaram Yadav Aged About 24 Years R/o Semra, P.S. Bhakhara, Thana, Tah. Dhamtari, Revenue and Civil Distt. Dhamtari C.G.

---- Appellant/claimant

Versus

1. Jagdar Singh S/o Maniram Gond Aged About 37 Years R/o Manbeda, Bhanupratappur, Distt. Kanker C.G., Present R/o Hanuman Timber Mart, Fafadih, P.S. Devendra Nagar, Revenue and Civil Distt. Raipur C.G. (driver of the offending vehicle truck No. CG 04 G 3707)
2. Bhai Lal Patel S/o B. Bhai Patel Aged About 44 Years R/o Hanuman Timber Mart, Fafadih, P.S. Devendra Nagar, Raipur, Revenue and Civil Distt. Raipur C.G. (owner of the offending vehicle truck No. CG 04 G 3707)
3. The Oriental Insurance Company Ltd. C/o Divisional Office, Madina Building, Jail Road, Raipur, Revenue and Civil Distt. Raipur C.G. (Insurer of the offending vehicle truck No. CG 04 G 3707)
4. Sanat Kumar Sahu S/o Ramji Sahu Aged About 36 Years R/o Siltara, P.S. Bhakhara, Tah. Bhakhara, Revenue and Civil Distt. Dhamtari C.G. (Driver of the vehicle tractor and trolley No. CG 05 G-3416/CG-05-C-1264)
5. Ramji Sahu S/o Sitali Ram Sahu Aged About 45 Years R/o Siltara, P.S. Bhakhara, Tah. Bhakhara, Revenue and Civil Distt. Dhamtari C.G. (Owner of the vehicle tractor and trolley No. CG 05 G-3416/CG-05-C-1264)
6. National Insurance Company Ltd. Branch No. 1, Naveen Bazar, Phool Chowk, G.E. Road, Raipur, Distt. Raipur C.G. (Insurer of the vehicle tractor and trolley No. CG 05 G-3416/CG-05-C-1264)

---- Respondents

For Appellant	:	Shri D. Kushwaha, Adv.
For Respondent No.1, 2 & 4 to 6	:	None though served.
For Respondent No.3	:	Shri Raj Awasthi, Adv.

Hon'ble Shri Gautam Chourdiya, J

Judgment On Board

03/01/2019

This appeal is by the injured claimant against the award 23.1.2014 passed by Additional Motor Accident Claims Tribunal (FTC), Dhamtari in Claim Case No.41/2013 awarding total compensation of Rs.27,349/- with interest @ 6% per annum from the date of application

till realization, fastening liability on the non-applicants No. 1 to 3 jointly and severely.

02. As per claim petition, on 9.4.2011 the appellant/claimant was sitting in the tractor and coming back from Kurud. However, near main road, Kurud, non-applicant No.1 Jagdar Singh came from opposite direction driving vehicle truck bearing No. CG 04 G 3707 in a rash and negligent manner and hit the aforesaid tractor, as a result of which the tractor overturned and the appellant suffered grievous injuries including fracture.

03. On claim petition being filed by the claimant under Section 166 of the Motor Vehicles Act, 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 insurance company.

05. Learned counsel for the appellant/claimant submits that the claimant sustained grievous injuries and as per statement of Dr. Iqbal Parvez (AW-2), plate was inserted into the right hand of the claimant and he suffered 30% permanent disability. However, the amount awarded by the Tribunal is not proportionate to the injuries caused to the claimant; no amount towards future treatment, conveyance or attendant has been awarded; the Tribunal awarded only Rs.5000/- towards pain and suffering and Rs.3000/- towards nutritional diet and therefore, the amount awarded by the Tribunal deserves to be enhanced.

06. 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.

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

08. Considering the nature and extent of injury suffered by the claimant, the statement of AW-2 Dr. Iqbal Pavez, who treated the

claimant and certificate of Ex.P/23 issued by him, other medical documents Ex.P/21 & P/22, it is noticed that long time treatment would be required for the claimant. The Tribunal has not awarded any amount towards attendant and transportation/conveyance. As regards the amount awarded towards medical expenses, the same is not in dispute. Thus, considering all the aspects of the matter, this Court is of the opinion that the claimant is entitled for compensation in the following manner:

Sl. No.	Heads	Calculation (in rupees)
01.	Towards medical expenses	19,349/- (as awarded by the Tribunal)
02.	For pain and suffering	10,000/-
03.	Towards loss of earning for three months @ Rs.3000/- per month	9,000/-
04.	For attendant	5,000/-
05.	For conveyance	5,000/-
06.	For nutritional diets	3,000/- (as awarded by the Tribunal)
	Total:	51,349/-

Since the Tribunal has already awarded Rs.27,349/-, after deducting the same from the above amount, the claimant is held entitled for additional compensation of Rs.24,000/- with interest @ 6% per annum from the date of application till realization. However, rest of the conditions of the impugned award shall remain intact.

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

Sd/
(Gautam Chourdiya)
Judge