

HIGH COURT OF CHHATTISGARH, BILASPUR

MAC No. 512 of 2014

- Kumari Sangeeta @ Sulochana D/o Jagdish Naik Aged About 18 Years R/o Shivaji Nagar, Khursipar Gate, Bhilai, P.S. Khursipar, Tah., Civil and Revenue Distt. Durg C.G.

---- Appellant/claimant

Versus

1. Indu Sahu S/o Lakhan Sahu Aged About 32 Years R/o Besides Pond, Indira Nagar, P.S. Khursipar, Bhilai, Tah. And Distt. Durg C.G., Driver Tractor No. CG 07 NA 1299.
2. Juneb Khan S/o Late Siraj Khan R/o House No. 189, Kohka Farid Nagar, Bhilai, Tah. And Distt. Durg C.G. Owner of Tractor No. CG 07 NA 1299.
3. Cholamandalam General Insurance Co. Ltd. Through Authorized Officer, Issuing Authority Of Policy And Local Office- First Floor, Induja Complex, Near Railway Line, Devendra Nagar, Raipur, Tah. And Distt. Raipur C.G. Insurer of Tractor No. CG 07 NA 1299.

---- Respondents

For Appellant	:	Shri Vikas Shrivastava on behalf of Shri Arvind Dubey, Advocates.
For Respondent No.1 & 2	:	None though served.
For Respondent No.3	:	Shri Amit Buxy, Advocate.

Hon'ble Shri Gautam Chourdiya, J

Judgment On Board

06/02/2019:

This appeal is by the claimant under Section 173 of the Motor Vehicles Act, 1988 against the award 26.2.2014 passed by VI Additional Motor Accident Claims Tribunal, Durg (CG) in Claim Case No. 45/2013 awarding total compensation of Rs.1,85,414/- with interest @ 7% per annum from the date of application till realization, fastening liability on the non-applicant No.3/insurance company jointly and severally along with non-applicants No. 1 & 2/driver & owner.

02. As per claim petition, on 17.5.2012 at about 10 am while claimant Ku. Sangeeta, student of Class-12th, was going on bicycle, non-applicant No.1 Indu Sahu by driving vehicle tractor bearing No.CG 07 NA 1299 in a rash and negligent manner, dashed the claimant, as a result of which she suffered grievous injuries including fracture of her backbone. She remained hospitalized from 17.5.2012 to 8.6.2012 and is still under treatment.

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. Learned counsel for the appellant/claimant submits that as per Ex.P/48 i.e. the disability certificate and the evidence of AW-4 Dr. Akhilesh Yadav, the claimant sustained 30% disability due to injury on her backbone (L-3). In para-7, the doctor has stated that after treatment the said disability may either reduce or aggravate. The claimant is an unmarried girl, her future prospect has been badly affected due to this injury, no amount has been awarded towards pain and suffering and further the Tribunal has not awarded sufficient amount towards conveyance and other heads. Therefore, the compensation is required to be enhanced 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 matters 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 per statement of AW-4 Dr. Akhilesh Yadav and the disability certificate Ex.P/48, it stands proved that the claimant sustained 30% disability due to injury on her backbone L-3 caused in the said accident. The doctor (AW-2) has stated in cross-examination that he issued temporary disability certificate only on the ground that one year was not completed after the accident at the time of issuance of such certificate. Therefore, looking to the nature and extent of injury

sustained by the claimant, the fact that she is required to have treatment in future also, family members of the claimant would be required to accompany her for her treatment; the claimant had to bear pain and suffering during treatment and the hike in prices, 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 Bills	55,514/- (as awarded by Tribunal)
02.	For future treatment.	40,000/-
03.	For conveyance	4,000/-
04.	For special diet	5,000/-
05.	For attendant	7,000/-
06.	For loss of earning	1,00,000/- (as awarded by Tribunal)
07.	For pain and suffering	25,000/-
	Total:	2,36,514/-

Since the Tribunal has already awarded Rs.1,85,414/- after deducting the same from the above amount, the claimant is held entitled for additional compensation of Rs.51,100/- with interest @ 7% 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