

HIGH COURT OF CHHATTISGARH, BILASPUR

MAC No. 1431 of 2016

- Anil Kumar S/o Shri Amar Sai, Aged About 22 Years R/o Village Kailashpur, Caste- Rajwar, Police Station- Jainagar, Tahsil And District Surajpur, Chhattisgarh

---- Appellant/claimant

Versus

1. The United India Insurance Company Limited Through Branch Manager, The United India Insurance Company Limited, Bramha Road Near Hotel Kumkum Ambikapur, District Sarguja, ChhattisgarhInsurer
2. Ramjatan Kushwaha S/o Babulal Kushwah,
3. Matukdhari Kushwaha S/o Shivilal Kushwaha, Aged About 21 Years

Respondents No. 2 & 3 are R/o Village Silfili Police Station Jainagar, Tahsil And District Surajpur, ChhattisgarhDriver,

---- Respondents

For Appellant	:	Shri Sushil Dubey, Advocate.
For Respondent No. 1	:	Shri Ghanshyam Patel, Advocate.
For Respondent Nos. 2 & 3	:	None.

Hon'ble Shri Gautam Chourdiya, J

Judgment On Board

14/05/2019

This appeal is by the injured claimant under Section 173 of the Motor Vehicles Act, 1988 against the award dated 6.9.2016 passed by Motor Accident Claims Tribunal, Surajpur (CG) in Claim Case No.76/2015 awarding total compensation of Rs.62,431/- with interest @ 9% per annum from the date of application till realization, fastening liability on the non-applicants jointly and severally.

02. As per claim petition, on 12.3.2015 claimant, aged 22 years, earning Rs.7500/- per month as a contract labour, was going along with one Sanjay Tiwari on his motorcycle bearing No. MP 15 MD 8616 as a pillion rider to Ambikapur. However, on the way, non-applicant No.3 Matukdhari by driving the vehicle Pick Up bearing No. MP 18 H 4338, owned by non-applicant No.2 and insured with non-applicant No.1, in a rash and negligent manner, dashed the said motorcycle as result of which the claimant suffered grievous injuries on various parts of his body.

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 he has raised various grounds in the memo of appeal but is not pressing all those grounds and is confining his argument only to the extent that the Tribunal was not justified in assessing the monthly income of the injured as Rs.3000/- whereas the claimant being a contract labour was earning Rs.7500/- per month. Further, considering the nature of injuries suffered by the claimant and the nature of his work, the Tribunal should have awarded compensation towards loss of income for three months but it has awarded only for one month.

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. As submitted by learned counsel for the appellant, no counter appeal has been filed by the respondents.

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

08. Considering the facts and circumstances of the case, the overall evidence adduced by the parties, the minimum wages at the relevant time, the gravity of the injuries sustained by the claimant, the period

likely to be taken in recovery of such injuries and the nature of job of the claimant, this Court is of the opinion that the monthly income of the claimant can safely be taken as Rs.5500/- and the loss of earning can be taken for two months instead of one month as considered by the Tribunal. Thus, the claimant is entitled for compensation towards loss of income for two months @ Rs.5500/- i.e. Rs.11,000/-. The amount awarded by the Tribunal under other heads being just and proper need no interference by this Court.

Accordingly, the claimant is held entitled for a total compensation of Rs.70,431/- and since the Tribunal has already awarded Rs.62,431/-, he is entitled for additional compensation of Rs.8000/- with interest @ 9% 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