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HIGH COURT OF CHHATTISGARH, BILASPUR

Miscellaneous Appeal (Civil) No. 271 of 2018

- Arun Kumar S/o Devendra Prasad Gupta, aged about 38 years, R/o Kridatta Colony, Dhamtari, P.S. & Tahsil- Dhamtari, Civil & Revenue District- Dhamtari (C.G.)

---- Appellant/Claimant

Versus

1. Suraj Takri S/o Shatrughan Takri, aged about 21 years, R/o Station Para, Rajnandgaon, P.S. Chikhali, District- Rajnandgaon (C.G.)
2. Prashant Khandelwal S/o Dwarika Prasad, R/o Kamthi Line Road, Rajnandgaon, P.S. Chikhali, District Rajnandgaon (C.G.)
3. Divisional Manager, National Insurance Company Limited, Near Lal Ganga Complex, G.E. Road, Raipur, District Raipur (C.G.)

---- Respondents/Non-applicants

For Appellant	:	Shri Sumit Shrivastava, Advocate
For Respondents 1 & 2	:	None
For Respondent No.3	:	Shri Pravin Kumar Tulsyan, Advocate

Hon'ble Shri Justice Gautam Chourdiya, J

Judgment on Board

30.01.2019

1. This appeal is by the Claimant/Appellant against the award dated 15.12.2017 passed by the Motor Accident Claims Tribunal, Dhamtari (C.G.) in Claim Case No. 128 of 2016 awarding total compensation of Rs.3,00,400/- with interest @ 6% per annum from the date of application till realization, fastening the liability on the Insurance Company/Respondent No.3.

2. As per claim petition, on 03.05.2013, Claimant/Appellant aged about 36 years, earning Rs.1,02,000/- per annum as Area Sales Representative in Shivnath Tractors Kanger Show Room sustained injuries in the motor vehicular accident caused due to rash and negligent driving of the vehicle- Sumo bearing registration No. CG-08/K/1438 by Respondent No.2 – Prashant Khandelwal. Due to the said accident, Appellant sustained grievous injuries on thigh of left leg, head, hands and other part of the body. Left leg of the Appellant was operated by the Doctor and an iron rod was also fitted. The Appellant suffered 30% temporary disability.

3. 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.

4. Learned counsel for the Appellant/Claimant submits that the income of Appellant has wrongly been considered by the Tribunal and one month income has been granted by the Tribunal to the Claimant, whereas, it should have granted for three months income. He further submits that the amount awarded towards pain and suffering also being on the lower side deserves to be enhanced suitably and no amount towards future treatment has been granted to the Claimant.

5. On the other hand, learned counsel for Respondent No.3/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.

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

7. As regards income of the Appellant, the Appellant has pleaded that as per Ex.-P/126, he was earning Rs.1,02,000/- per annum as Area Sales Representative and the Tribunal has considered the income of the Appellant as Rs.283/- per day and has assessed monthly income of the Appellant at Rs.7,075/- on the ground that the Appellant would have been getting work only for 25 days in a month. Considering the facts and circumstances of the case, particularly looking to the injury and temporary disability of the Appellant as also the fact that bone of his left thigh was fractured which was operated and interlocking nailing was done, he must have suffered loss of income for about three months and also would be required treatment in future. Therefore, this Court is of the opinion that ends of justice would be served if the income of the Appellant is considered as Rs.8,500/- per month, the Appellant is entitled for three months salary as Rs.25,500/- and further he is also awarded Rs.30,000/- on the head of future treatment. This apart, the Appellant is also entitled for Rs.20,000/- towards pain and suffering in place of Rs.5,000/-.

Keeping in view of overall facts and circumstances of the case, pleadings of the parties and the evidence adduced by them, this Court is of the opinion that the Claimant/Appellant is entitled for compensation in the following manner:-

Sl.No.	Head	Calculation
1	For medical treatment/bills	Rs.2,51,325/- (as awarded by the Tribunal)
2	Income of three months	Rs.25,500/-
3	For conveyance	Rs.10,000/- (as awarded by the Tribunal)
4	For special diet and assistant etc.	Rs.20,000/- (as awarded by the Tribunal)
5	For attendant	Rs.7,000/- (as awarded by the Tribunal)
6	For pain and suffering	Rs.20,000/-
7	For future treatment	Rs.30,000/-
	Total Compensation	Rs.3,63,825/-

Since the Tribunal has already awarded Rs.3,00,400/-, after deducting the same from the above amount, the Claimant/Appellant is held entitled for additional compensation of Rs.63,425/-.

8. Resultantly, the appeal is allowed in part and the impugned award is modified to the extent that the Claimant/Appellant shall be entitled to a total enhanced amount of compensation of Rs.63,425/- with further direction of payment of interest on the enhanced amount of compensation with interest @ 6% per annum from the date of application till realization. However, rest of the conditions of the impugned award shall remain intact.

9. No order as to costs.

Sd/-
(Gautam Chourdiya)
Judge