

HIGH COURT OF CHHATTISGARH, BILASPUR

MAC No. 382 of 2019

Ishwar @ yashu Prasad Pandey, aged about 35 years, S/o Shri Shesh Narayan Pandey, R/o Lalpur, Tikrapara, District Raipur (C.G.) permanent Resided at – Nawagaon Kala, Post, Bhurkoni, District Mahasamund (C.G.).

---- Appellant/Claimant

Versus

1. Arjun Nayak S/o Shri Kamal Nayak, through – Sandeep Gupta, S/o Shri Abhimanyu Prasad Gupta, Sonarpal, Devra, P.S. Bhanpuri, District Bastar (C.G.)
(Driver of Truck No. CGT 04 J 9370))
2. Suresh Sharma S/o Shri Jainarayan Sharma, R/o Dalpat Sagar Ward Chitrakut Road, Jagdalpur, other address : Sandeep Gupta S/p Shri Abhimanyu Prasad Gupta, Sonarpal, Devra, P.S. Bhanpuri District Bastar (C.G.)
(Owner of Truck No. CG 04 J 9370)
3. The New India Insurance Company Limited, through the Divisional Manager, The New India Insurance Company Limited, Madina Building, Kachary Chowk, Jail Road, Raipur, District Raipur (C.G.)
(Insurer of Truck No. CG 04 J 9370)

---- Respondents

For Appellant : Shri Sanjay Dewangan, Advocate.
For Respondent No.1 & 2 : None.

Hon'ble Shri Gautam Chourdiya, J

Judgment On Board

20/02/2019

Heard on admission.

02. This appeal has been filed by the injured claimant under Section 173 of the Motor Vehicles Act, 1988 against the award dated 07/01/2019 passed by IV Additional Motor Accident Claims Tribunal, Raipur in Claim Case No. 814/2015, awarding compensation of Rs.

7,22,274/- with interest @ 7.5% per annum from the date of claim petition till realization, fastening the liability on non-applicant No. 3/ Insurance Company.

03. As per averments in the claim petition, on 31/01/2015 while the claimant was riding on the motorcycle as a pillion rider which was being ridden by his brother, non-applicant No. 1 Arjun Nayak by driving Truck bearing registration No. CG-04-J-9370 in a rash and negligent manner dashed the motorcycle of the claimant. As a result of the said accident, the claimant suffered grievous injuries including fracture on bone of his right leg.

04. On claim petition being filed by the claimant under Section 166 of the Motor Vehicles Act for compensation of Rs. 42,50,000/-, the Tribunal considering the pleadings of the parties and evidence adduced by them granted compensation as mentioned above.

05. Learned counsel for the appellant/claimant submits that the Tribunal has not awarded sufficient amount towards loss of income, medical expenses and other conventional heads and therefore, in the facts and circumstances of the case and the nature of injury suffered by the claimant, the amount awarded by the Tribunal deserves to be enhanced suitably.

06. Heard learned counsel for the appellant and perused the impugned award.

07. The Tribunal considering the documents filed by the claimant, the disability certificate of Ex.-P-55 according to which the claimant suffered 45% permanent disability, assessed the functional disability to the extent of 30% vide para 15 of the award. Looking to the nature of injury sustained by the claimant, evidence of Dr. Girish Kumar (AW-3) and Dr. Nand Kishore Mandape (AW-4) and the disability certificate Ex-P-55, assessment of the functional disability to the extent of 30% by the Tribunal cannot be faulted with. Further all the medical bills have been duly considered by the Tribunal. Considering the age of the claimant i.e., 38 years, the evidence of the claimant as well as of witness AW-2 Mohammad Ishak, income of the claimant has been

assessed as Rs. 8,000/- per month and further 40% addition to the annual income towards future prospect has been granted by the Tribunal in view of decision of the Hon'ble Supreme Court in the matters of ***National Insurance Co. Ltd. Vs. Pranay Sethi, (2017) 16 SCC 680.***

08. The Tribunal has rightly applied multiplier of 15 considering the age of the claimant i.e. 38 years, as per judgment of the Hon'ble Supreme Court in the matter of ***Smt. Sarla Verma and others VS. Delhi Transport Corporation and another, (2009) 6 SCC 121.*** As regards the amount awarded by the Tribunal towards 30% permanent disability, medical expenses, attendant, special diet, conveyance, pain & suffering and loss of income, the same appears to be just and proper and need no enhancement by this Court. Thus considering overall facts and circumstances of the case, pleadings of the claimant, the evidence adduced by him and the reasons assigned by the Tribunal in the impugned award, the amount awarded by the Tribunal cannot be said to be inadequate or on the lower side warranting interference by this Court.

09. In the result, the appeal being without any substance is liable to be dismissed at the admission stage itself and it is accordingly dismissed.

Sd/

(Gautam Chourdiya)
Judge