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HIGH COURT OF CHHATTISGARH, BILASPUR

Miscellaneous Appeal (Civil) No. 408 2018

- Pritesh Deewan, aged about 17 years, Occupation Student through legal guardian father Pritam Deewan S/o Kisslal, R/o Behind of Citymall House No. 47 Vidhayak Colony, Tahsil and District Raipur (C.G.)

---- Appellant/Claimant

Versus

1. Bharat Sahu S/o Ramesh Sahu, aged about 20 years, Occupation- Driver of vehicle, R/o Naya Ravanbatha Ward No.21, Thana and District Mahasamund (C.G.) - **Driver**
2. M.P. Rice Trading Company Through Sumit Agrawal, Gurunanak Ward Panjabipara Ward No.6 Mahasamund (C.G.) (Registered Owner of the offending vehicle Truck No. C.G. 06/C/9382) - **Owner**
3. H.D.F.C. Agro General Insurance Company Limited, Devendra Nagar Chawala Complex Raipur, District- Raipur (C.G.) (Insurer of the offending vehicle Truck No. C.G. 06/C/9382) - **Insurer**

---- Respondents/Non-applicants

For Appellant	:	Shri A.L. Singroul, Advocate
For Respondents 1 & 2	:	None
For Respondent No. 3	:	Shri Rohitashava Singh, Advocate

Hon'ble Shri Justice Gautam Chourdiya, J

Judgment on Board

14.01.2019

1. The present is an appeal under Section 173 of the Motor Vehicles Act, 1988 preferred by the Claimant, seeking enhancement of the compensation awarded by First Additional Presiding Officer Raipur of First Additional Motor Accident Claims Tribunal, Raipur (C.G.) vide award dated 11.01.2017 passed in M.A.C. No. 205 of 2013.
2. The claimant/Appellant claimed compensation of Rs.13,00,000/- by filing a claim petition under Section 166 of the Motor Vehicles Act, 1988 for injury sustained by him in the motor accident.
3. The brief facts of the case are that on the date of accident i.e. 22.12.2012 when the Claimant/Appellant was coming from Tumgaon to Mahasamund in the motorcycle of his friend-Rahul Gajendra as a pillion rider, Respondent No.1/driver

of the offending vehicle Truck bearing registration No. CG-06/C/9382 driving the said vehicle in a rash and negligent manner dashed the motorcycle. Due to the said accident Claimant/Appellant sustained grievous injuries on his right leg, right hands and other part of the body. At the time of accident the Appellant/Claimant was minor aged about 17 years and was studying in 11th standard.

4. The learned Tribunal, in the impugned award, has awarded a compensation of Rs.4,00,799/- to Appellant/Claimant with interest @ 7.5% per annum from the date of filing of the application till realization.

5. Learned counsel for the Appellant/Claimant submits that due to the said accident, Appellant sustained grievous injuries on his right leg, right hand and other part of the body and suffered 55% permanent disability. He further submits that the Tribunal has awarded a low compensation and has awarded interest on the compensation amount @ 7.5% per annum whereas it should have been 9% per annum. He further submits that the Tribunal has erred in not awarding any amount towards loss of amenities.

6. On the other hand, learned counsel for the Respondent No.3/Insurance Company, however, opposes the appeal and submits that the learned Tribunal has rightly awarded the compensation amount, therefore, it is just and reasonable, which does not call for any interference in the instant appeal.

7. I have heard the learned counsel appearing for the parties and perused the impugned award including the records of the Claims Tribunal.

8. As per evidence of Dr. N.K. Mandpe (AW-2), after examination of the Claimant, he states that the femur bone of right leg, bone of thigh and tibia and fibula bone of the Claimant were fractured and after operating, an iron rod was fitted which results in 55% temporary disability, not permanent disability. The Tribunal considering all the aspects of the matters has awarded Rs.3,34,799/- towards medical expenses as per Ex.-P/10 to Ex.-P/124; Rs.16,000/- towards attendant; Rs.20,000/- towards physical & mental agony; Rs.10,000/- for

conveyance; Rs.10,000/- for special diet and Rs.10,000/- for treatment in future. Thus, the Tribunal has rightly awarded a total compensation amount of Rs.4,00,799/- to the Appellant/Claimant on account of injury to him in a vehicular accident under the aforesaid heads. Further, looking to the injury caused to the Appellant in his right leg and right hand, particularly fracture of his femur bone of right leg, bone of thigh and tibia & fibula bone, his hospitalization from 22.12.2012 to 12.01.2013, this Court is of the view that the interest of the parties will be safeguard by awarding lump sum additional compensation to the tune of Rs.10,000/- toward loss of amenities in future life.

9. Accordingly, the present appeal is partly allowed and the Appellant/Claimant is hereby awarded additional compensation amount of Rs.10,000/- towards loss of amenities alongwith interest @ 7.5% per annum from the date of application till its realization. However, rest of the conditions of the impugned award shall remain intact.

10. No order as to costs.

Sd/-
(Gautam Chourdiya)
Judge