

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 931 of 2016**

1. Sarju Turkane S/o Bhukhan Turkane, aged bout 35 years, R/o Village- Dhamani, Thana- Chakarbhatha, Distt.- Bilaspur (C.G.).

---- Appellant/claimant**Versus**

1. Rajesh Kumar Dhruw S/o Janak Ram Dhruw aged about 30 years, R/o Village- Khamtarai, Thana- Sarkanda Tahsil and Distt.- Bilaspur (C.G.).

Driver of Vehicle Scorpio No. C.G. 10/F.A./7068.

2. Amit Mishra S/o R.S. Mishra aged about 45 years, Qatar No. -2 Police Line Bilaspur Tahsil & Distt.- Bilaspur (C.G.).

Owner of Vehicle Scorpio No. C.G. 10/F.A./7068.

3. Branch Manager, Rayol Sunderam Alliance Insurance Company Limited, Branch Office Ram Trade Center First Floor In front of Rajeev Plaja Purana Bus Stand, Bilaspur (C.G.).

---- Respondents

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

Hon'ble Shri Justice Gautam Chourdiya
Judgment on Board

13.03.2019

1. This appeal is by the claimant/injured against the award dated 27.01.2016, passed by 7th Additional Motor Accident Claims Tribunal, Bilaspur in Claim Case No. 279/2015 awarding total compensation of Rs.1,08,500/- along with interest @ 6 % per annum. The Tribunal directed that the said amount payable by Non-applicant No. 3 within 30 days from the date of award to the claimant with interest @ of 6% per annum from the date of claim petition. The Tribunal further directed that if the compensation is not paid within stipulated period the same shall carry

interest @ 9% per annum.

2. As per averments in the claim petition, on 26.04.2015, the claimant aged about 35 years earning Rs. 7,000/-pm as operator at Vandna Power Plant, Sirgitti was coming back to his house from his work place, when he reached near Nagpur Primary School, due to rash & negligent driving of offending vehicle (Scorpio) C.G. 10-FA/7068 by Non-applicant No. 1-Rajesh Kumar Dhruv, dashed the injured claimant as a result of which the appellant/claimant suffered grievous injuries on his head left leg, nose & ear and other parts of the body which caused disability to the appellant.

03. On claim petition being filed by the claimant/injured 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. No counter appeal has been filed by the respondent/insurance company.

05. Learned counsel for the appellant/claimant submits that the claimant is a skilled person but the learned Tribunal has wrongly considered the income of the claimant as Rs. 4,500/-pm whereas it should have been considered as Rs. 7,000/-pm. He also submits that the amount awarded by the Tribunal is not proportionate to the injuries caused to the claimant as no amount towards conveyance awarded to the claimant/injured. He further submits that the Tribunal has further erred in not awarding adequate sum on the head of pain & suffering & special diet and therefore, the amount awarded by the Tribunal deserves to be enhanced suitably.

06. On the other hand, learned counsel for the respondent No.3 /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.

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

08. It is not disputed that at the time of accident, the claimant was working at Vandna Power Plant, Sirgitti, as operator but no salary certificate or any other evidence regarding his income was produced or proved by him before the Tribunal, therefore, the learned Tribunal considered income of the claimant as Rs. 4,500/-pm. The accident occurred in the year 2015, therefore, being a skilled labour, as per minimum wages prevailing at the relevant time, the income of the claimant as Rs. 6,000/-pm can safely be considered. Further considering the fact that due to the said accident the claimant could not join his duty for a period of three months, in these circumstances, three months' income of the claimant i.e. Rs. 18,000/-pm can be considered as his loss of earning. As regards the amount awarded towards medical expenses as Rs. 70,000/- (vide Ex. A-5 to Ex. P/40) the same is not in dispute. The claimant was getting treatment from Ramkrishna Hospital, Bilaspur therefore, Rs. 2,000/- towards conveyance & Rs. 5,000/- for future treatment can be considered. Further, the Tribunal has awarded Rs. 10,000/- towards attendant, Rs. 5,000/- towards special diet and Rs. 10,000/- towards pain & suffering is just & proper. Therefore, the claimant is held entitled for the compensation in following manner:-

Sl. No.	Heads	Awarded by the Tribunal	Calculation (in rupees)
01.	Loss of income for three months @ 6,000/-pm	Rs. 4,500/-per month	6000 x3 = Rs. 18,000/-
02.	Towards special diet	Rs. 5,000/-	Rs. 5,000/-
03.	Towards attendant	Rs. 10,000/-	Rs. 10,000/-
04.	For conveyance		Rs. 2,000/-
05.	For future treatment		Rs. 5,000/
06.	Towards expenses on Medicine	Rs. 70,000-	Rs. 70,000/- as awarded by the Tribunal

07.	Towards pain and suffering, nutritional diets	Rs. 10,000/-	Rs. 10,000/- As awarded by the Tribunal
08.	Total Compensation		Rs. 1,20,000/-

09. Since the Tribunal has already awarded Rs.1,08500/-, after deducting the same from the above amount, the claimant is held entitled for additional compensation of Rs.11,500/- with interest as mentioned in the impugned award. However, rest of the conditions of the impugned award shall remain intact.

10. In the result, the appeal is allowed in part with modification in the impugned award to the above extent.

Sd/-

Gautam Chourdiya
Judge

Amita