

HIGH COURT OF CHHATTISGARH, BILASPUR

MAC No. 516 of 2013

- Shivnath Markam S/o Buddhu Ram Markam Aged About 40 Years R/o Podgaon, P.S. Antagarh, Distt. North Bastar Kanker C.G.

---- Appellant/claimant

Versus

1. Santosh S/o Khublal Sahu Aged About 38 Years R/o Manish Travels, Sector-2, Bhilai, Distt. Durg C.G. (driver of the vehicle)
2. Manish Travels New Bus Stand, Durg, Distt. Durg C.G., (owner of the vehicle)
3. The I.C.I.C.I. Lombard Motor Insurance, Lal Ganga Shopping Mall, G.E. Road, Raipur, Distt. Raipur C.G.

---- Respondents

For Appellant	:	Shri PK Tulsyan, Advocate.
For Respondent Nos. 1 & 2	:	None.
For Respondent No.3	:	Shri Saurabh Sharma, Advocate.

Hon'ble Shri Gautam Chourdiya, J

Judgment On Board

05/04/2019

This appeal is by the injured claimant under Section 173 of the Motor Vehicles Act, 1988 against the award 28.2.2013 passed by Additional Motor Accident Claims Tribunal, Bhanupratappur, Distt. North Bastar, Kanker, in Claim Case No.75/2012 awarding total compensation of Rs.5 lacs with interest @ 6% per annum from the date of application till realization, fastening liability on the non-applicants jointly and severally.

02. As per claim petition, on 27.5.2009 at about 3 am, claimant along with his wife and children was going on his motorcycle. However, on the way, non-applicant No.1 by driving bus bearing No.CG 07 E 0520,

owned by non-applicant No.2 and insured with non-applicant No.3, in a rash and negligent manner, dashed the motorcycle of the injured claimant as a result of which he suffered grievous injuries leading to amputation of one of his legs above the knee.

03. On claim petition being filed by the 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 in this case, medical bills of about Rs.19,333/- as per Exs. P/32 to P/40 and P/46 to P/65 have not been considered by the Tribunal and for artificial limb, no amount has been awarded. Only Rs.32,633/- towards conveyance, special diet and miscellaneous expenses during treatment has been awarded and looking to long treatment and amputation of leg, it needs to be enhanced suitably. Further, the amount for loss of income for eight months has also not been granted by the Tribunal. Therefore, the total compensation is required to be enhanced.

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 matters has rightly awarded compensation which needs no interference by this Court.

06. No counter appeal has been filed by the respondents as submitted by learned counsel for the parties.

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

08. Looking to the medical bills of the claimant from Exs. P/32 to P/40 and P/46 to P/65, which have not been considered by the Tribunal, the claimant is held entitled for Rs.19,333/-, which is rounded off to Rs.20,000/- towards medical expenses. Further, considering the nature of injuries, in particular the amputation of leg, the claimant is also entitled for Rs.1.25 lacs for artificial limb. The Tribunal has awarded Rs.32,633/- towards conveyance, special diet and other

miscellaneous expenses during treatment, which is enhanced to Rs.50,000/-. However, as the claimant has failed to prove that due to the injuries sustained by him, he suffered any loss of income, the Tribunal was justified in not awarding any amount under this head. Thus, the claimant is held entitled for compensation in the following manner:

Sl. No.	Heads	Calculation (in rupees)
01.	Towards medical expenses	2,67,367/- (as awarded by Tribunal)
02.	Conveyance, special diet and miscellaneous expenses during treatment.	50,000/-
03.	Other medical expenses as per Exs. P/32 to P/40 and P/46 to P/65.	20,000/-
04.	For Artificial limb	1,25,000/-
05.	Pain & suffering and loss of amenities in future life.	2,00,000/- (as awarded by Tribunal)
	Total compensation	6,62,367/-

Since the Tribunal has already awarded Rs.5 lacs, after deducting the same from the above amount, the claimant is held entitled for additional compensation of Rs.1,62,367/- with interest @ 6% 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