

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MAC No. 698 of 2013

- Bhagwat Sahu S/o Bharat Lal Sahu, Aged About 24 Years, R/o Tandul, Post- Palod, P.S. Mandir Hasaud, Tah. Arang, Distt. Raipur, Chhattisgarh, Civil and Revenue District - Raipur, C.G.

---- Appellant

Versus

1. Sant Kumar Mahilang, S/o Fagua Ram Mahilang, Aged About 25 Years, R/o Village - Kuhera, Post- Rakhi, Tah. Arang, Distt. Raipur, Chhattisgarh
2. The Iffco Tokio General Insu. Co. Ltd., Thru- Branch Manager, Branch Office, 3rd Floor, Lal Ganga Shopping Mall, G.E. Road, Raipur, District : Raipur, Chhattisgarh
3. Nand Kumar Sahu, S/o Bharat Lal Sahu, Aged About 24 Years, R/o Tandul, Post- Palod, P.S. Mandir Hasaud, Tah. Arang, District : Raipur, Chhattisgarh
4. United India Insu. Co. Ltd. Thru- Divisional Manager, Divisional Office, Krishna Complex, Kachhari Chowk, District : Raipur, Chhattisgarh

---- Respondents

For Appellant : Shri Pawan Kesharwani, Adv.
For Respondent No.2. : Shri Amrito Das, Adv.

Hon'ble Smt Justice Rajani Dubey

Order On Board

25/01/2019

1. This appeal arises out of the award dated 18.02.2013 passed by 7th Additional Motor Accident Claims Tribunal (for short the "Tribunal"), Raipur (C.G.), in Claim Case No.76/2011 awarding a compensation of Rs.1,18,943/- in favour of the appellant/claimant with interest at the rate of 6% per annum for

the injuries suffered by him in the accident.

2. Facts of the case, in brief, are that on 20/05/2011, when appellant/claimant was riding his motorcycle No. CG-04-DU-4975 carefully and going to village Fundaher, near middle school the motorcycle No. CG-04-DU-1705, which was being driven by Respondent No.1 herein in rash and negligent manner came from the opposite side and dashed front side of the motorcycle of the claimant/appellant, as a result of which he sustained number of injuries in his jaw and ears.

3. A Claim case was filed by the appellant/claimant claiming compensation of Rs.12,50,000/- interalia pleading that at the time of incident he was aged about 24 years, earning Rs.18,000/- per month by running Kirana Shop and in the accident he suffered permanent disability.

4. Respondents contested the claim denying the claim of the claimant, however, the Tribunal awarded compensation of Rs.1,18,943/- in favour of the claimant/appellant.

5. Counsel for the appellant/claimant submits that the compensation awarded by the Tribunal in all the heads is on the lower side and needs to be enhanced suitably. He further submits that the learned Tribunal has grossly erred in not considering the statement of the appellant, though he has specifically stated in his statement that after the incident he shut down his kirana shop and unable to perform any work. He also submits that the learned Tribunal failed to appreciate the disability of the

appellant and committed gross error in considering the gravity of loss incurred and injury sustained by the appellant, as a result of accident.

6. Learned counsel for the Respondent No.2/Insurance Company supports the award impugned and submits that the compensation awarded by the Tribunal is just and proper.

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

8. Admittedly, the claimant/appellant has suffered fracture in upper and lower jaw and his six teeth of upper jaw and four teeth of lower jaw were found to be broken and he remained hospitalized in Shri Balaji Super Speciality Hospital from 20.05.2011 to 29.05.2011 i.e. 9 days as it is evident from the record of the case. Considering the fact that during his admission in the hospital, his upper and lower jaw was operated, and according to the treating doctor Sanjay Jadhvani (AW-2), there was likelihood of 30% permanent disability to the claimant in absence of proper treatment, and this 30% disability could be reduced by giving proper treatment but could not be restored originally. Thus, in view of above, this Court is not inclined to come to conclusion that claimant/appellant suffered any permanent disability and his earning capacity might not have been affected due to this, however, in day-to-day life he may be suffering due to facial deformities. The claimant/appellant has lost 10 teeth in all, and at the age of 25, the broken teeth cannot

be grown up again and artificial teeth will not work like natural teeth for digesting the food. Therefore, it will certainly affect the digestive system. The claimant/appellant is 25 years old young man and due to dis-figuration of upper and lower jaw and loss of natural teeth, the claimant/appellant is entitled for enhanced amount of compensation.

09. Thus, keeping in view all the above things, this Court is of the view that the amount awarded by the Claims Tribunal is on lower side and requires reconsideration. The claimant/appellant is entitled for compensation in the following manner:-

Head	Amount awarded	Amount enhanced
For suffering grievous injuries	Rs.48,500/-	Rs.1,00,000/-
For Medical Expenses and expenses on medicine	Rs.22,443/-	Nil
For Conveyance, special diet and attendant	Rs.2,000/-	Rs.10,000/-
For loss of income	Rs.6000/-	Rs.10,000/-
For future treatment	Rs.25,000/-	Rs.80,000/-
For pain, suffering and mental torcher for disfiguration	Rs.15,000/-	Rs.1,00,000/-
	Total	Rs.3,00,000/-

10. On the basis of aforesaid discussion, the claimant/appellant is held entitled for a total compensation of Rs.3,00,000/-. Since,

the Claims Tribunal has already awarded Rs.1,18,943/-, after deducting the said amount, the claimant/appellant is entitled for enhanced amount of Rs.1,81,057/- (3,00,000 - 1,18,943). This additional amount of compensation shall carry interest @ 6% p.a. from the date of filing of claim application till realization. The amount received by the claimant, if any, shall be adjusted in the enhanced sum.

11. In the result, the appeal is allowed in part and the award impugned stands modified to the extent indicated above.

**Sd/-
(Rajani Dubey)
Judge**

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