

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 296 of 2013**

- Sanjay Kumar S/o Muneshwar Vyas Aged About 26 Years R/o Khursipar Zone-2, Road-50, Qtr.No. 5-A, Bhilai, P.S. Bhilai, Distt. Durg C.G.

----Appellant**Versus**

1. John David @ Bablu S/o Francis Javier Aged About 27 Years R/o Baikunth Tilda, P.S. And Distt. Raipur C.G.
2. Pushparaj Pathak S/o Late B.R. Pathak R/o Sangam Chowk, New Khursipar, House No. 59, Bhilai, P.S. Bhilai, Distt. Durg C.G.
3. Jayka Insurance Brokerage Pvt. Ltd. G.E. Road, Tatibandh, Raipur, P.S. And Distt. Raipur C.G.

---- Respondents

For Appellant

Shri V.K. Sahu, Advocate.

For Respondent No.3

Shri Rishikant Mahobia, Advocate on behalf of Shri A.K. Prasad, Advocate.

Hon'ble Shri Justice Gautam Chourdiya**Judgment on Board**

09/05/2019

This appeal is by the claimant/injured against the award dated 28.09.2012 passed by the First Additional Motor Accident Claims Tribunal, Durg, District Durg, C.G. in Claim Case No.3/10 awarding total compensation of Rs.8,488/- with interest @ 6% per annum from the date of application till realization, fastening liability on the Insurance Company along with non-applicant nos. 1 & 2 jointly and severally.

02. As per claim petition, on 24.10.2009, claimant/injured Sanjay Kumar, aged about 26 years, earning Rs.16,000/- per month as Soldier in Indian Army (Infantry), sustained grievous injuries on his right hand,

right leg, shoulder and his forefinger was cutoff in the motor vehicular accident caused due to rash and negligent driving of Tata Magic bearing no. CG07-T-1630 by non-applicant No.1/respondent no.1. At the time of accident, offending vehicle was owned by non-applicant no.2/respondent no.2 and insured with non-applicant no.3/respondent no.3.

03. On claim petition being filed by the claimant/injured under Section 166 of the Motor Vehicles Act for compensation to the tune of Rs.14,20,000/-, the Tribunal considering the evidence led by both the parties passed an award as mentioned in para 1 of this judgment.

04. Learned counsel for the appellant submits that looking to the fact that the appellant sustained multiple injuries, the amount of compensation of Rs.8,488/- awarded by the Tribunal is shockingly on lower side, and therefore, this appeal may be allowed and the amount of compensation may suitably 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. Heard learned counsel for the parties and perused the material available on record.

07. No counter appeal has been filed by the respondents as submitted by both the parties.

08. It is not disputed by both the parties that the appellant sustained

injuries in the motor accident on 24.11.2009 but for the reasons best known to the appellant/claimant no doctor was examined before the Tribunal to establish the number and nature of injuries said to have been sustained by him in the motor accident and the fact that those injuries resulted in any permanent disability. Despite having ample opportunities in this regard.

09. In view of above, the amount of compensation awarded by the Tribunal for the injuries sustained by the appellant, in the light of the fact that no doctor was examined by the appellant to prove the number and nature of injuries and the resultant loss, in my opinion, there is no scope for enhancement in the amount of compensation awarded by the Tribunal.

10. In the result, the appeal being without any substance is liable to be dismissed and is, accordingly, dismissed.

Sd/-
Gautam Chourdiya
Judge

Akhilesh