

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 772 of 2014**

- Naveen Lal, S/o Narendra Lal, aged about 27 years, Caste Isai, R/o Village Lokandi, Police Station- Sarkanda, Tahsil & District- Bilaspur (C.G.).

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

1. Ashwani Kumar, S/o Muniram, aged about 40 years.
2. Satish Pathak, S/o Umashankar Pathak, aged about 36 years.
Respondents No. 1 & 2 are residents of Jarhagaon, PS & Post Office Jarhagaon, PS & Post Office Jarhagaon, Tahsil Mungeli, Dist. Bilaspur (C.G.).
3. Laxmikant @ Motiram, S/o Daulat Kashyap, aged about 34 Years, R/o Jarhagaon, Post Office jarhagaon, Tahsil Mungeli, Dist.- Bilaspur (C.G.).
4. Bajaj Alliance General Insurance Company Limited, Shiv Mohan Bhawan, Vidhan Sabha Marg, pandri, Raipur (C.G.).

---- Respondents

For Appellant	:Shri Vivek Shrivastava, Adv.
For Res./Owner	:Shri Pallav Mishra, Advocate.
For Res./Insurance Company No.3:	Shri N. K. Tahkur, Advocate with Shri Rohitashav Singh, Adv.

Hon'ble Shri Gautam Chourdiya, J**Judgment On Board****10/01/2019**

This appeal is filed under Section 173 of the Motor Vehicle Act by the injured claimant against the award 05.03.2014 passed by Additional Motor Accident Claims Tribunal, Mungeli in Claim Case No.183/2011 awarding total compensation of Rs.80,000/- with interest @ 6% per annum from the date of application till realization, fastening liability upon respondent No. 4 / Bajaj Alliance General Insurance Company Limited alongwith Non-applicants/respondents.

02. As per claim petition, on 18.06.2009 when the appellant/claimant was going for taking drinking water on his motorcycle, at that time non-applicant No. 3/respondent No. 3- Laxmikant @ Motiram while driving the offending vehicle Tractor bearing engine No. 515729108219 and

Chassis No. 915710244701 from the wrong side rashly & negligently, dashed the aforesaid motorcycle of the injured claimant, as a result of which, the appellant/claimant fell down and sustained grievous injuries on his eyes, head, hand and tooth, etc and due to injuries in eye, the appellant lost his eyesight.

03. On claim petition being filed by the claimant/appellant under Section 166 of the Motor Vehicles Act, the Tribunal considering the evidence led by both the parties passed an award as mentioned para one of this judgment.

04. Learned counsel for the parties submits that in the instant case no counter appeal has been filed by the insurance company.

05. Learned counsel for the appellant/claimant submits that the claimant sustained grievous injuries and as per Ex. P/11 and P/12 his tooth is broken and his eyesight is lost and he suffered permanent disability to the extent of 45%. However, only amount of Rs. 10,000/- awarded towards pain & suffering but not awarded any amount towards loss of vision and that awarded amount by the Tribunal is not proportionate to the injuries caused to the claimant. Therefore, the amount awarded by the Tribunal deserves to be enhanced.

06. On the other hand, learned counsel for the respondent No. 4/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. Looking to the injuries sustained by the claimant the Tribunal has awarded very low amount. Considering the nature and extent of injuries suffered by the claimant and other medical documents i.e. Ex.P/11 & P/12, MLC report (Ex.P-4) bad head ticket (Ex.P-8) of CIMS hospital, the nature of injuries on the eye of the injured and his teeth

was broken it would be appropriate to consider Rs.2,00,000/- towards loss of vision & for treatment of broken teeth. Toward pain & suffering Rs. 60,000/- is awarded to the injured/claimant. It is also noticed that long time treatment would be required for the claimant, therefore, Rs. 80,000/- can be safely taken for future treatment. The Tribunal has awarded amount towards attendant and transportation/conveyance & special diet is just & proper. Thus, considering all the aspects of the matter, this Court is of the opinion that the claimant is entitled for compensation in the following manner:

Sl. No.	Heads	Calculation (in rupees)
01.	Towards loss of vision & treatment of broken teeth	Rs.2,00,000/-
02.	For pain and suffering	Rs. 60,000/-
03.	For attendant	Rs. 4,000/-
04.	For conveyance	Rs.5,000/-
05.	For special diet	Rs. 5,000/-
06	For future treatment	Rs. 80,000/-
	Total:	3,54,000/-

Since the Tribunal has already awarded Rs.80,000/-, after deducting the same from the above amount, the claimant is held entitled for additional compensation of Rs.2,74,000/- 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