

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 1138 of 2014**

- Laxman Ram Bhagat @ Laxman son of Ramdhani Ram Bhagat, aged about 37 years, resident of Kusmunda, Gevra Basti, Police Station- Kusmunda, District- Korba (C.G.).

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

1. Ashok Singh son of Laxman Singh, aged about 37 years, resident of Village- Nonbirra, Police Station- Pali, District- Korba (C.G.).
2. Ruprani Kanwar wife of Makhan Singh, resident of B-132, Shakti Nagar, Tahsil- Katghora, Police Station- Deepka, District- Korba (C.G.).
3. The Oriental Insurance Company Limited, through the Branch Manager, Office near Old Bus Stand, Korba, District- Korba (C.G.).

---- Respondents

For Appellant	:Shri A. L. Singroul, Advocate.
For Respondent No.3	:Shri H. P. Agrawal, Advocate

Hon'ble Shri Gautam Chourdiya, J**Judgment On Board****29.04.2019**

1. This is claimant's/injured appeal seeking enhancement of compensation awarded by the Additional Motor Accident Claims Tribunal, (for short 'the Tribunal'), Katghora, C. G. in claim case No. 85/2012 vide award dated 24.09.2014.
2. As against compensation of Rs. 34,00,000/- claimed by appellant/claimant, by filing claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short 'MV Act') for the injuries sustained by him in the motor accident on 12.03.2012, the Tribunal awarded a

total sum of Rs.5,53,786/- as compensation along with interest @ 6 percent per annum from the date of filing of claim petition till its actual payment in favour of the appellant/claimant. Learned Tribunal, after considering the material available on record fastened the liability to pay compensation upon the Non-applicants jointly and severally.

3. As per averments in the claim petition, on 12.03.2012, at about 04.30 a.m., appellant/claimant -Laxman Ram Bhagat @ Laxman was driving the vehicle Tipper bearing No. C.G. 12-C/1675, near Krishna Nagar, Vasri-Deepka, Non-applicant No.1 –Ashok Singh by driving the offending vehicle (Trailer) bearing No. C.G.04-JC/1861 in a rash & negligent manner dashed the vehicle of the claimant and due to which he sustained grievous injuries resulting into permanent disability to the extent of 70%. The offending vehicle is owned by Non-applicant No. 2 and insured with Non-applicant No. 3.

4. Learned counsel for the appellant submitted that due to injuries sustained by the claimant/injured in the accident occurred on 12.03.2012, he suffered grievous injuries resulting into permanent disability to the extent of 70% as per disability certificate (Ex.P/9) issued by the Medical Board Korba. He also submits that Dr. Ghanshyam Deewan (AW-3), member of the concerned Medical board was also examined and according to him, the left leg is amputated below the knee and the permanent disability caused to the claimant/injured is to the extent of 70% whereas the Tribunal has assessed the loss of earning to the extent of 70% but considering the nature of job of the claimant i.e. driver it should have been taken as

100%. He also submits that at the time of accident the claimant was earning Rs. 8,500/-pm as a driver but the learned Tribunal considered only Rs. 4,000/-pm. Further the Tribunal has not awarded any amount towards future prospect. He also submits that the learned Tribunal has not awarded any amount towards pain & suffering, attendant and conveyance, which may be granted in accordance with law.

In support of above contention, reliance has been placed on the decisions of the Hon'ble Supreme Court in the matters of ***Smt. Sarla Verma and others VS. Delhi Transport Corporation and another, (2009) 6 SCC 121, National Insurance Co. Ltd. Vs. Pranay Sethi, (2017) 16 SCC 680.***

5. Learned counsel for respondent No. 3/Insurance Company would support the impugned award.

6. Learned counsel for the both the parties submitted that no counter appeal has been filed by the respondents.

7. Heard and perused the material available on record and the award impugned.

8. It is not disputed that the claimant/injured sustained injuries due to the said accident and at the time of accident, the claimant/injured was aged about 40 years. As per Exs. P/10 to P/16, medical bills and treatment bills of Rs. 39,293/- also were produced & proved by the claimant and the same were rightly considered by the Tribunal. The learned Tribunal considered the income of the claimant/injured as Rs. 4,000/- per month as driver, looking to the minimum wages of skilled person at the relevant time which seems to be just & proper.

9. So far as loss of earning is concerned, considering the evidence

of Dr. Ghanshyam Deewan (AW-3), who was examined before the Tribunal and stated in paragraphs 2 and 3 of his statement that vide Ex. P/9 medical certificate issued by the Medical Board after examining the claimant, claimant has suffered grievous injuries including 70% permanent disability and his left leg is amputated below the knee and that statement remained uncontroverted, looking to the nature of job of the claimant the Tribunal was justified in assessing the loss of earning of the claimant to the extent of 70%. However, it has committed illegality by not granting any amount towards future prospect whereas considering the nature of job of the claimant and his age i.e. 40 years in view of the *Pranay Sethi*, (supra), he is entitled for 40% towards future prospect.

10. Considering the overall facts and circumstances of the case, the period of hospitalization of the claimant, the nature of injuries, the nature of his job and other relevant aspects of the matter and the decisions of the Hon'ble Supreme Court in *Sarla Verma*, *Pranay Sethi*, (supra), this Court is of the opinion that the claimant is entitled for compensation in the following manner:

Sl. No.	Heads	Calculation (in rupees)
01.	Income of the claimant @ Rs.4,000/- per month.	Rs.4000x12= Rs/ 48,000/- per annum
02.	40% towards future prospect	Rs. 48,000+ 19,200/- = Rs. 67,200/- per annum.
03.	Loss of earning @ 70%.	Rs. 47,040/-
04.	Multiplier of 15 to be applied	Rs. 47,040 x 15=

		Rs. 7,05,600/-
05.	Towards medical expenses	Rs.39,293/-
06.	Towards special diet	Rs.5,000/-
07.	Towards pain & suffering	Rs.25,000/-
08.	Towards conveyance	Rs.5,000/-
09.	For future life & amenities	Rs.50,000/-
10.	Total Compensation :	Rs. 8,29,893/-

Since the Tribunal has already awarded Rs.5,53,786/- after deducting the same from the above amount, the claimant is held entitled for additional compensation of Rs.2,76,107/- with interest as awarded by the Tribunal.

11. In the result, the appeal is allowed in part with modification in the impugned award to the above extent. Rest of the conditions shall remain intact.

Sd/-

(Gautam Chourdiya)
Judge