

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 74 of 2014**

- Jhabbuchand Verma aged about 25 years S/o Shri Thakurram Verma, Occupation- Branch Mannager, S.K.S.M.L., R/o Vill.- Indamara, P.S.- Lalbag, Civil & Revenue Distt.- Rajnandgaon (C.G.).

---- appellant**Versus**

1. Arun Singh Rajpoot aged about 28 years, S/o Ramesh Singh Rajpoot, Occupation- Driver, R/o Nafrepur, Post- Kajari, P.S.- Badkagaon, Tah.- Rasana, Civil & Revenue Distt.- Baliya (U.P.).
2. M/s X.P.S. Cargo Service Copper Will Near Bus Stand, T.C.I. Compound, Thane Bhiwandi, Civil & Revenue Distt.- Thane (M.H.)

Through- Power of Attorney Holder Ramniwas Sharma, S/o Bhupalram Sharma, R/o Tatibandh Maruti Home, House No. 303, Raipur, Civil & Revenue District- Raipur (C.G.).

3. Reliance General Insurance Co. Ltd. Through- Branch Manager, Branch Office Shop No. 124-126 Krishna Complex Kachahri Chowk, Raipur, Civil & Revenue District- Raipur (C.G.) Pin Code- 4920001.

---- Respondents

For Appellant	: Shri Rakesh Thakur, Advocate
For Respondent No. 3	: Shri S. S. Rajput, Advocate

Hon'ble Shri Justice Gautam Chourdiya
Judgment on Board

19.02.2019

1. This appeal under Section 173 of the Motor Vehicle Act has been preferred by the claimant/injured against the award 27th July, 2012 passed by Second Additional Motor Accident Claims Tribunal, Rajnandgaon in Claim Case No. 63/2012 awarding total compensation of Rs.2,22,000/- along with interest @ 6% per annum from the date of

application till realization, fastening liability of payment of compensation upon the non-applicants.

2. As per claim petition, on 6.6.2010, at about 2.30 pm near Dasmesh Dhaba, appellant was going to fetch water in drum from tractor trolley to village Banbhedi and when he reached near Dasmesh Dhaba after fetching water, at that very time, one Truck bearing registration No. M.H.-04 B.U./8502 being driven rashly and negligently by respondent No. 1 reached there from back side of Dasmesh Dhaba and dashed his tractor trolley forcefully, as a result of which the tractor trolley turned turtle and appellant was remained inside the tractor, as a result of which, he sustained grievous bony injuries on his left leg and his left leg's knee has been broken including disability to the extent of 30%.

3. On claim petition being preferred by the claimant/injured under Section 166 of the Motor Vehicles Act, 1988, the Tribunal considering the evidence led by both the parties passed an award as mentioned above.

4. No counter appeal has been filed by the respondent/insurance company.

5. Learned counsel for the appellant/claimant submits that as per Disability Certificate (Ex.P-20) issued by treating Dr. Prakash Bhalerao (AW-2), the claimant sustained grievous injuries including permanent disability to the extent of 30% whereas learned Claims Tribunal while assessing the amount of compensation has considered 15% functional disability without considering the fact that appellant's left leg is badly injured due to the injuries sustained by him and stiffness is also present in the left leg, his left leg's figure and thumb has also been amputated. He also submits that no amount awarded towards attendance and the amount awarded towards pain & suffering, special diet & conveyance appear to be lower side which deserve to be enhanced suitably.

6. On the other hand, learned counsel for the respondent No.3 /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. Having heard learned counsel for the parties, having gone through their pleading, the evidence, oral and documentary, adduced by them, the medical documents and all relevant aspects of the matter, this Court finds that the learned Tribunal not erred in assessing the functional disability to the extent of 15% and awarding insufficient amount towards loss of income to the claimant/injured. At the time of accident, the claimant/injured was earning Rs. 3,000/- pm by working as Branch Manager of M.K.S. Micro Finance Company, which, in the opinion of this Court is just & proper. However, the claimant is also entitled for Rs. 5,000/- towards attendant; towards pain & suffering Rs. 5,000/- (awarded by the Tribunal) is enhanced to Rs. 10,000/-; Rs. 3,000/- (awarded by the Tribunal) is enhanced Rs. 8,000/- towards special diet and towards transportation Rs. 3,000/- (awarded by the Tribunal) is enhanced Rs. 8,000/- looking to the injury suffered by the claimant.

09. In the result, the appeal is allowed in part. The appellant/claimant is held entitled for additional compensation of Rs. 20,000/- i.e. Rs.2,42,000/- along with interest @ 6% per annum from the date of application till realization. The award impugned stands modified to the above extent only. However, rest of the conditions of the award shall remain intact.

Sd/-

(Gautam Chourdiya)
Judge