

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 313 of 2017**

1. Pritam Singh @ Lalla S/o Mohan Lal Sahu Aged About 35 Years R/o Village Bodra, Tahsil And District- Dhamtari, Chhattisgarh (Owner)

---- Appellant**Versus**

1. Sohan Lal Sahu S/o Aganu Ram Sahu Aged About 45 Years R/o Village Bodra, Tahsil And District Dhamtari (C.G.)
2. Yogendra @ Raju S/o Lalji Sahu R/o Village Bodra, Tahsil And District Dhamtari (C.G.) (Driver)
3. United India Insurance Company Limited, Batena Chowk, Singh Complex, Dhamtari, Tahsil And District- Dhamtari (C.G.) (Insurer)

---- Respondents

For Appellant	: Shri S.S. Baghel, Advocate.
For Respondent Nos. 1 to 2	: None, though served.
For Respondent No. 3	: Shri B.N. Nande, Advocate.

Hon'ble Shri Gautam Chourdiya, J**Judgment On Board****15/05/2019**

- 1) This appeal is preferred by the owner of the vehicle under Section 173 of the Motor Vehicles Act, 1988 against the award dated 03/10/2016 passed by Motor Accident Claims Tribunal Dhamtari (C.G.) in Claim Case No. 110/2016 awarding total compensation of Rs. 60825/- with interest @ 6% per annum from the date of application till realization, fastening liability on the appellant/non-applicant No. 2 Pritam Singh (Owner) and respondent No.2/non-applicant No.1 Yogendra @ Raju Sahu (Driver), jointly and severally and exonerated insurance Company on ground that at the time of accident driver of

offending vehicle Yogendra @ Raju Sahu was not holding a valid and effective driving license.

- 2) As per averments in the claim petition, claimant injured Sohan Lal Sahu on 06/10/2014 at around 09:30 AM, was riding Bicycle going to his home village Bodra with moderate speed at that time non-applicant No. 1 driving the offending vehicle Maruti Van bearing No. CG06 C 2786 rashly and negligently dashed Sohan Lal Sahu. Consequently, Sohan Lal Sahu suffered injury on her wrist, neck, chest and other parts of the body. Due to injury suffered by him he has become permanently disabled. The offending vehicle was owned by non-applicant No. 2 and insured with non-applicant No. 3.
- 3) On claim petition being filed by the injured claimant under Section 166 of the Motor Vehicles Act, the Tribunal considering the evidence led by both the parties passed an award as mentioned above.
- 4) Learned counsel for the appellant submits that though he has raised various grounds in this memo of appeal, however, he is not pressing all those grounds and is assailing the award on the following grounds only :-
 - i) that at the time of accident Yogendra @ Raju was not driver of the non-applicant No.2/appellant. Learned Tribunal did not consider the Ex. D-4 i.e. the information given by the owner of the vehicle to concerned Superintending of Police on 22/01/2014 which shows that driver of the vehicle is Bhoj S/o Bhukhanlal Sahu. Since the said Bhoj was having valid and effective driving licence on the date of accident, the Tribunal wrongly holding that the vehicle in question was being driven by Yogendra @ Raju/non-applicant No. 1 exonerated Insurance company.
 - ii) that the compensation is also being on the higher side deserves to be reduced suitably.

- 5) On the other hand, learned counsel for the respondent opposed the contention made by the counsel for the appellant and 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.
- 6) No any counter appeal is filed by the respondents as submitted by both the counsel of the parties.
- 7) Heard learned counsel for the parties and perused the material available on record & impugned award.
- 8) As per written statement of owner of the vehicle non-applicant No. 2 Pritam Singh @ Lalla, the offending vehicle was being driven by Lalji but non-applicant No.-1 that the alleged driver of the offending vehicle in his written statement as stated that the vehicle was being driven by its owner non-applicant No. 2/Pritam. As per Ex. D-4, the application submitted before the Superintending of Police, Dhamtari by non-applicant No. 2, the owner of the vehicle as informed the Police that the vehicle in question is driven by Bhoj S/o Bhukhan Lal Sahu. However, NAW-2 Bhojram Sahu has denied the fact that the vehicle was being driven by him, the vehicle driven by non-applicant No. 1 without information to him (Bhojram). Further, from the record it is seen that a prompt FIR (E.x P-3) was lodged against non-applicant No. 1 and after investigation charge sheet (Ex. P-1) was filed against him. Since non-applicant No. 1 was not having a valid and effective driving licence on the date of accident, it appears that owner of the vehicle non-applicant No. 2 in order to escape the liability had mentioned the name of one Lalji as driver of his vehicle in his written statement who was said to be having a valid and effective driving license. Though the owner has taken this pleading but no evidence to support the same has been adduced. Whatever evidence has been adduced by the owner run contrary to each other. Pritam Singh owner of the

vehicle has admitted that he had never handed over the vehicle to Lalji Sahu. Thus looking to the nature and quality of evidence adduced by the parties, in particular the contrary evidence adduced by the non-applicant No. 2 owner, the Tribunal has rightly found the evidence of the owner unreliable and fastened the liability upon non-applicant No. 1 and non-applicant No. 2 while exonerating Insurance Company on its liability.

- 9) So far as quantum of compensation is concerned considering the facts and circumstances, the gravity of the injury suffered by the claimant, the oral and documentary evidence adduced by the claimant to substantiate his claim, the period of his hospitalization, the minimum wages at the relevant time, this Court is of the opinion that the amount of Rs. 60,825/- awarded by the Tribunal as compensation to the claimant cannot be said to be on the higher side rather it appears to be just and proper and proportionate to the loss suffered by the claimant.
- 10) Resultantly, the appeal being without any substance is liable to be dismissed itself and is, accordingly, dismissed.

-Sd/-
(Gautam Chourdiya)
Judge