

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 853 of 2013**

- Hungaram S/o Bodaram Aged About 32 Years, Caste Muriya, R/o Village Gudra, Tah. Chindgarh, Thana- Sukma, Distt. Sukma C.G.

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

1. Hudmaram Markam S/o Joga Markam Aged About 56 Years R/o Gudra, Tah. Chindgarh, Thana- Sukma, Distt. Sukma C.G. (Driver & Owner)
2. The Oriental Insurance Co. Ltd. Insurance Company, Behind Hotel Laxman, Krishi Upaj Mandi Road, Jagdalpur, Distt. Bastar C.G.

---- Respondents

For Appellant	:	Shri Alok Ku. Dewangan, Advocate.
For Respondent No.1	:	None.
For Respondent No.2	:	Smt. Chitra Shrivastava, Advocate.

Hon'ble Shri Gautam Chourdiya, J**Judgment On Board****09/05/2019**

This appeal is by the claimant under Section 173 of the Motor Vehicles Act, 1988 against the award dated 29th June, 2013 passed by Motor Accident Claims Tribunal, South Bastar, Dantewada (CG) in Claim Case No.14/2012 awarding total compensation of Rs.50,000/- with interest @ 6% per annum from the date of application till realization, fastening liability on non-applicant No.2/insurance company.

02. As per claim petition, on 20.11.2007 the claimant, 32 years of age, earning Rs.4,500/- per month as a labour, was travelling in the motorcycle owned and ridden by non-applicant No.1 bearing No.CG 17 E 8707 as a pillion rider. However, due to rash and negligent riding of the motorcycle by non-applicant No.1, the claimant fell down from it and suffered grievous injuries including fracture of bone of left leg.

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

04. Learned counsel for the appellant/claimant submits as under:

(i) that the claimant sustained 40% permanent disability, his leg got shortened by $\frac{3}{4}$ inch and looking to the statement of Dr. AR Gota (AW-1) who has proved Ex.A/1 i.e. permanent disability certificate and his contention is not challenged in the cross-examination, the Tribunal should have considered permanent disability and functional disability but the same have not been considered.

(ii) that no amount towards future prospect has been granted to the claimant.

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***, and ***National Insurance Co. Ltd. Vs. Pranay Sethi, (2017) 16 SCC 680***.

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. No counter appeal has been filed by the respondents as submitted by learned counsel for the parties.

07. Heard learned counsel for the parties and perused the material available on record.

08. As regards income of the claimant, though the claimant has pleaded that he was earning Rs.4,500/- per month as a labour but no documentary evidence in support thereof has been adduced. Therefore, in these circumstances, in absence of any proof regarding income, the income of the claimant is considered as Rs.3000/- per month as per minimum wages at the relevant time. Further, considering the age of the claimant which appears to be between 26-30 years as per MLC (Ex.A/7), X-ray report (Ex.A/8) which were filed and proved by the claimant, the nature of his job, the gravity of his injury and the

decisions of the Hon'ble Supreme Court in *Sarla Verma* and *Pranay Sethi* (supra), the claimant is held entitled for compensation in the following manner:

Sl. No.	Heads	Calculation (in rupees)
01.	Income of the claimant @ Rs.3000/- per month.	36,000/- per annum
02.	40% of (i) above to be added towards future prospects.	36,000 + 14,400 = 50,400/-
03.	10% functional disability	5,040/-
04.	Multiplier of 17 to be applied	85,680/-
05.	Towards medical expenses	7,000/- (as awarded by Tribunal)
06.	Towards pain and suffering	10,000/- (as awarded by Tribunal)
07.	Towards conveyance	3,000/- (as awarded by Tribunal)
	Total	1,05,680/-

Since the Tribunal has already awarded Rs.50,000/-, after deducting the same from the above amount, the claimant is held entitled for additional compensation of Rs.55,680/- with interest as awarded by the Tribunal. 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