

HIGH COURT OF CHHATTISGARH, BILASPUR

MAC No. 806 of 2013

- Heeramani Singh S/o Hukum Singh Aged About 32 Years R/o Deprapara, Shastri Chowk, Durg, P.S. Kkotwali, Civil And Revenue Distt. Durg C.G.

---- Appellant/claimant

Versus

1. Prahlad Kashyap S/o Ram Jharokha Kashyap Aged About 30 Years R/o Medesara, P.S. Ahiwara, Distt. Durg C.G. (Driver)
2. M/s New Bus Transport Company Dhamdha Road, Durg, Distt. Durg C.G. (Owner)
3. The New India Insurance Co. Ltd. Parakh Bhawan, Station Road, Durg, Through The Chief Branch In Front Of Project, Automobiles, G.E. Road, Power House Bhilai, Distt. Durg C.G. (Insurer)

---- Respondents

For Appellant	:	Shri Syed Majid Ali, Advocate.
For Respondent Nos. 1 & 2	:	None.
For Respondent No.3	:	Shri Qamrul Aziz, Advocate.

Hon'ble Shri Gautam Chourdiya, J

Judgment On Board

16/04/2019

This appeal is by the injured claimant under Section 173 of the Motor Vehicles Act, 1988 against the award 9.4.2013 passed by First Additional Motor Accident Claims Tribunal, Durg (CG) in Claim Case No.115/2011 awarding total compensation of Rs.43,000/- with interest @ 6% per annum from 16.12.2011 till realization, fastening liability on the non-applicants jointly and severally.

02. As per claim petition, the claimant was conductor in vehicle Bus bearing No. CG 07 E 602, which was owned by non-applicant No.2

and insured with non-applicant No.3. However, non-applicant No.1 Prahlad Kashyap while reversing the said vehicle in a rash and negligent manner dashed the claimant as a result of which claimant suffered grievous injuries including fracture of bones of both legs and also suffered 11% permanent disability.

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 that the Tribunal was not justified in not awarding any amount towards 11% permanent disability suffered by the claimant, which was duly proved by the claimant. Further, no amount towards future prospect has been granted and likewise, the amount awarded under the conventional heads is also on the lower side, which needs to be enhanced suitably.

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 matter has rightly awarded compensation which needs no interference by this Court. The Tribunal has already considered all the medical bills and therefore, no enhancement is required in this case.

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. From perusal of the record it is seen that the claimant suffered 11% permanent disability as per Ex.P/20 and the claimant examined Dr. PC Deshmukh (AW-3) in support thereof. The Tribunal considering all the aspects of the matter, the fact that claimant was conductor in the offending vehicle and only some movement of knee is restricted as per evidence of AW-3 Dr. PC Deshmukh, did not consider any functional disability of the claimant due to permanent disability caused to him. Considering the nature and extent of injury suffered by the claimant

and the nature of his job, this finding of the Tribunal cannot be faulted with. However, looking to the long life pain due to injury sustained by the claimant, restricted movement of his knee in future, this Court is of the opinion that ends of justice would be served if the amount of Rs.5,000/- awarded by the Tribunal towards loss of reasonable enjoyment is enhanced to Rs.25,000/- and the amount of Rs.2,000/- awarded by the Tribunal towards special diet and conveyance is enhanced to Rs.4,000/-. Accordingly, the claimant is awarded additional compensation of Rs.22,000/- with interest as awarded by the Tribunal.

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

Sd/

(Gautam Chourdiya)

Judge