

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Miscellaneous Appeal (Civil) No. 877 of 2014

- Suresh Tiwari, S/o Late Lalchand Tiwari, aged about 46 years, Occupation Business, Caste Brahman, R/o Village Kansabela, P.S. & Tahsil Kansabela, District Jashpur (C.G.)

---- Appellant/Claimant

Versus

1. Mh. Farukh S/o Late Abdul Rashid, R/o Kharsiya Naka, Ambikapur, District Surguja (C.G.)
(Vehicle Owner – C.G.-15-A-2288)
2. Idrish S/o Mushtkim, aged about 50 years, R/o Village Jashpur Nagar, Tahsil & District Jashpur (C.G.)
(Vehicle Driver- C.G.-15-A-2288)
3. Branch Manager, United Insurance Company Limited, Brahmma Road, Ambikapur, District Surguja (C.G.)
(Insurer- C.G.-15-A-2288)

---- Respondents/Non-applicants

For Appellant	:	Shri Dev Ashish Biswas, Advocate
For Respondents 1 & 2	:	None
For Respondent No.3	:	Shri B.N. Nande, Advocate

Hon'ble Shri Justice Gautam Chourdiya, J

Judgment on Board

26.02.2019

1. This is Claimant's appeal filed under Section 173 of the Motor Vehicles Act for enhancement of the compensation awarded by the Additional Motor Accident Claims Tribunal (FTC), Jashpur, District Jashpur (C.G.) in Claim Case No. 04 of 2013 vide award dated 10.07.2014.
2. As against compensation of Rs.1,95,465/- claimed by the Claimant by filing claim application under Section 166 of the Motor Vehicles Act, 1988 for injury sustained by him in the motor accident, the Tribunal awarded a total sum of Rs.31,700/- along with interest @ 6% per annum from the date of application till realization, fastening the liability upon Respondent No.3/non-applicant No.3 along with non-applicants No. 1 and non-applicant No.2 jointly and severally.

3. Brief facts of the case are that on 17.09.2010 Claimant/Appellant was going to Ambikapur with his relatives by Wagon-R bearing registration No.CG-14/C/0191 which was being driven by his friend Sanjay Garg, when they reached village Bataikela, non-applicant No.2, driver of the offending vehicle Bus bearing registration No.CG-15/A/2288, driving the same in a rash and negligent manner, dashed the Wagon-R. As a result thereof, the Appellant sustained grievous injuries on his head, chest, back and other parts of the body and his right leg was fractured.
4. Learned counsel for the Appellant/Claimant submits that due to injuries sustained by the Appellant in the accident, there was fracture of superior border scapula and other part of the body. As per Ex.-A/27 & Ex.-A/28, his treatment was going on from 17.09.2010 to 22.09.2010 in Guru Nanak Hospital & Research Centre, Ranchi. But, the Tribunal has awarded only Rs.31,700/- as compensation which is on the lower side and deserves to be enhanced suitably.
5. On the other hand, learned counsel for Respondent No. 3/Insurance Company supports the impugned award and submit that the Tribunal considering all the aspects of the matter has rightly awarded compensation which needs no interference by this Court.
6. As submitted by learned counsel for the parties, no counter appeal has been filed by the Respondents.
7. Heard learned counsel for the parties and perused the material available on record.
8. As regards income of the Claimant, though the Claimant has pleaded that he has a Hardware Shop and is earning Rs.15,000/- per month, however, no evidence in support thereof has been adduced. Thus, considering the gravity of the injuries suffered by the Claimant, the period of hospitalization and medical documents available on record, this Court is of the opinion that the Claimant is entitled for Rs.14,000/- towards loss of income for four months @ Rs.3,500/- per month on notional basis.
9. Further, considering that the Claimant was hospitalized in Guru Nanak

Hospital, Ranchi from 17.09.2010 to 22.09.2010, his superior border scapula was fractured, the Claimant would have suffered physical & mental pain during hospitalization, looking to the fact that he underwent treatment in other State, this Court is of the view that the amount of Rs.2,000/- awarded by the Tribunal towards pain & suffering deserves to be enhanced to Rs.10,000/-. This apart, the Claimant is also entitled to, Rs.2,000/- for special diet; Rs.2,000/- for attendant and Rs.5,000/- for conveyance. Thus, the Claimant/Appellant is entitled for compensation in the following manner:-

manner:-

Sl.No.	Heads	Calculation (In rupees)
1.	For medical expenses	Rs.24,700/- (as awarded by the Tribunal)
2.	For grievous injury	Rs.5,000/- (as awarded by the Tribunal)
3.	Loss of four months income to the Claimant @ Rs.3,500/- per month	Rs.14,000/-
4.	For pain & suffering	Rs.10,000/-
5.	For special diet	Rs.2,000/-
6.	For attendant	Rs.2,000/-
7.	For conveyance	Rs.5,000/-
	Total Compensation	Rs.62,700/-

10. Since the Tribunal has already awarded Rs.31,700/-, after deducting the same from the above amount, the Claimant/Appellant is held entitled for additional compensation of Rs.31,000/- with interest @ 6% per annum from the date of application till its realization. However, rest of the conditions of the impugned award shall remain intact.

11. In the result, the appeal is allowed in part with modification in the impugned award to the above extent.

12. No order as to costs.

Sd/-
(Gautam Chourdiya)
Judge