

HIGH COURT OF CHHATTISGARH, BILASPUR

MAC No. 1039 of 2017

- Kashiram S/o Ramsingh, Aged About 58 Years R/o Subhash Nagar, Dhamtari, Tahsil And District Dhamtari, Chhattisgarh

---- Appellant/claimant

Versus

1. Santosh Kumar S/o Budharan, Aged About 40 Years R/o Chati, Thana Chati, Tahsil And District Dhamtari, ChhattisgarhDriver Of The Vehicle,
2. Bharat Lal Ghritlahere S/o Darhurar Ghritlahere, Aged About 46 Years R/o Shitalapara, Ward Hatkeshwar, Dhamtari, Tahsil And District Dhamtari, ChhattisgarhOwner Of The Vehicle,
3. Divisional Manager, The National Insurance Company Limited India, Near Lal Ganga Complex, G.E.Road, Raipur, District Raipur, ChhattisgarhInsurer,

---- Respondents

For Appellant	:	Shri Kunal Das, Advocate.
For Respondent No.1 & 2	:	None
For Respondent No.3	:	Shri Sanjay Patel, Advocate.

Hon'ble Shri Gautam Chourdiya, J

Judgment On Board

14/05/2019

This appeal is by the injured claimant under Section 173 of the Motor Vehicles Act, 1988 against the award dated 23.3.2017 passed by Additional Motor Accident Claims Tribunal (FTC), Dhamtari (CG) in Claim Case No.120/16 awarding total compensation of Rs.2,73,100/- with interest @ 6% per annum from the date of application till realization, fastening liability on the non-applicants jointly and severally.

02. As per claim petition, on 30.12.2014 while the claimant, 58 years of age, earning Rs.500-600/- per day by selling snacks, was crossing the road and reached near divider, non-applicant No.1 Santosh Kumar by riding his motorcycle bearing No.CG 05 S 9957, owned by non-applicant No.2 and insured with non-applicant No.3, in a rash and negligent manner, dashed the claimant as result of which the claimant suffered grievous injuries on various parts of his body.

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 though he has raised various grounds in the memo of appeal but is not pressing all those grounds and is confining his argument only to the extent that the Tribunal was not justified in assessing the monthly income of the injured as Rs.4500/- whereas the claimant was earning Rs.10,000/- per month by selling snacks; no amount towards future prospect has been awarded as per decision of the Hon'ble Supreme Court in the matter of **National Insurance Co. Ltd. Vs. Pranay Sethi, (2017) 16 SCC 680** and further the amount of Rs.10,000/- awarded towards pain and suffering being on the lower side deserves 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.

06. As submitted by learned counsel for the parties, no counter appeal has been filed by the respondents.

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

08. Considering the facts and circumstances of the case, the overall evidence adduced by the parties, the minimum wages at the relevant time, the age of the claimant i.e. 58 years, the nature of his job, 35% functional disability of the claimant, keeping in view the decision of the Hon'ble Supreme Court in *Pranay Sethi* (supra), the claimant is entitled for compensation in the following manner:

Sl. No.	Heads	Calculation (in rupees)
01.	Income of the claimant @ Rs.5,700/- per month.	68,400/- per annum

02.	10% of (i) above to be added towards future prospects.	68,400 + 6,840 = 75,240/-
03.	35% functional disability,	26,334/-
04.	Multiplier of 9 to be applied	2,37,006/-
05.	Towards medical expenses	54,000/- (as awarded by Tribunal)
06.	Towards pain and suffering as well as loss of reasonable enjoyment in future life	30,000/-
07.	Loss of earning during treatment for two months @ 5,700/- p.m.	11,400/-
08.	Towards expenses to be incurred in future treatment and medicines	20,000/- (as awarded by Tribunal)
09.	Towards special diet and conveyance	10,000/- (as awarded by Tribunal)
	Total:	3,62,406/-

Since the Tribunal has already awarded Rs.2,73,100/- after deducting the same from the above amount, the claimant is held entitled for additional compensation of Rs.89,306/- 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