

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Miscellaneous Appeal (Civil) No. 964 of 2013

- Rohitashv Patel S/o Premshankar Patel, aged about 26 years, R/o Chhote-Bhandar, Police Station & Tahsil- Pusaur, District (Revenue & Civil) Raigarh (C.G.)

---- Appellant/Claimant

Versus

1. Akhilesh Sidar S/o Mahendra Singh Sidar, aged about 58 years, R/o Ashok Vihar Colony, Dhimrapur Chowk, Raigarh, Tahsil & District (Revenue & Civil) Raigarh (C.G.)
2. Ashok Kumar Battimar (Agrawal) S/o Satyanarayan Agrawal, aged about 43 years, R/o Below Railway Gate, Raigarh, Tahsil & District (Revenue & Civil) Raigarh (C.G.), Police Station- Jutmil Chowki Raigarh & Ashok Nagar Bhilai, District (Revenue & Civil) Durg (C.G.)
3. Universal Sampo General Insurance Company Limited Through: Branch Manager Universal Sampo General Insurance Company Limited First Floor, Block No. 04, Paryawas Bhawan, Arera Hills, Jail Road Bhopal (M.P.)

---- Respondents/Non-applicants

For Appellant	:	Shri V.K. Pandey, Advocate
For Respondents No. 1 & 2	:	None
For Respondent No.3	:	Ms. Pratibha Das, Advocate appears on behalf of Shri Amrito Das, Advocate

Hon'ble Shri Justice Gautam Chourdiya, J

Judgment on Board

10.05.2019

1. The present is an appeal under Section 173 of the Motor Vehicles Act, 1988 preferred by the injured- Claimant/Appellant, seeking enhancement of the compensation awarded by the Motor Accident Claims Tribunal, Raigarh (C.G.) vide award dated 13.09.2013 passed in Claim Case No. 12 of 2013.

2. Facts of the case are that on 26.04.2012 the Claimant/Appellant, aged about 26 years, was coming to Raigarh by his motorcycle bearing registration No. CG-04/CD/5338, when he reached before Kodatarai Dhabha, non-applicant No.1, driver of the offending vehicle Truck Dumper bearing registration No. CG-07/C/7412, owned by non-applicant No.2 and insured with non-applicant No.3, driving the said truck in a rash and negligent manner, dashed the motorcycle of the Appellant. As a result thereof, the Appellant sustained grievous injuries on various parts of the body and sustained internal injury on his head. The motorcycle of the Appellant was also badly damaged.

3. The learned Tribunal, in the impugned award has awarded total compensation of Rs.1,53,590/- in favour of the Appellant/Claimant with interest @ 6% per annum from the date of award till its realization, fastening liability on the Respondents/non-applicants jointly and severally to pay compensation to the Claimant.

4. Learned counsel for the Appellant/Claimant submits that due to accident, the Claimant was hospitalized from 27.04.2012 to 09.05.2012 in Ramkrishna Care Hospital, Raipur, but no amount towards special diet has been granted to the Claimant. He further submits that the Claimant had filed medical bills before the Tribunal which had been exhibited as Ex.-P/9 to Ex.-P/43 and Ex.-P/50 to Ex.-P/62, but Ex.-P/21, Ex.-P/22, Ex.-P/26, Ex.-P/32 and Ex.-P/50 to Ex.P/62 amounting to Rs.11,366/- have not been considered by the Tribunal. He also submits that the motorcycle of the Appellant/Claimant has also been damaged on account of the said accident and Ex.-P/44 to Ex.-P/48 amounting to Rs.8,168/- are the bills relating to the repairing of his motorcycle which has also not been considered by the Tribunal. Therefore, he prays for enhancement of compensation.

5. On the other hand, learned counsel for the Insurance Company/Respondent 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. As submitted by learned counsel for the parties, no counter appeal has been filed by the Respondents/non-applicants.

7. I have heard the learned counsel appearing for the parties and perused the impugned award including the records of claim petition.

8. Considering the facts and circumstances of the case, the oral and documentary evidence adduced by the Appellant/Claimants, this Court is of the opinion that looking to the period of hospitalization from 27.04.2012 to 09.05.2012 in Ramkrishna Care Hospital at Raipur, the fact that he must have incurred

expenses towards special diet, the interest of justice will be safeguard by providing lump sum additional compensation of Rs.5,000/- towards special diet. Further, considering medical bills i.e. Ex.-P/21, Ex.-P/22, Ex.-P/26, Ex.-P/32 and Ex.-P/50 to Ex.P/62 amounting to Rs.11,366/- and repairing bills of motorcycle of the Claimant i.e. Ex.-P/44 to Ex.-P/48 amounting to Rs.8,168/-, the Claimant is held entitled for compensation in the following manner:

Sl.No.	Heads	Calculation (In rupees)
1.	Towards Medical bills of the Claimant	Rs.1,03,590/- (as awarded by the Tribunal)
2.	Towards pain & suffering	Rs.25,000/- (as awarded by the Tribunal)
3.	Loss of income during treatment	Rs.25,000/- (as awarded by the Tribunal)
4.	Towards special diet	Rs.5,000/-
5.	Medical bills & repairing bills of motorcycle of the Claimant which have not been considered by the Tribunal i.e. Rs.11,366/- + Rs.8,168/-	Rs.19,534/-
	Total Compensation	Rs.1,78,124/-

9. Since the Tribunal has already awarded Rs.1,53,590/-, after deducting the same from the above amount, the Claimant is held entitled for additional compensation of Rs.24,534/- with interest @ 6% per annum from the date of application till realization. However, rest of the conditions of the impugned award shall remain intact.

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

11. No order as to costs.

Sd/-
(Gautam Chourdiya)
Judge