

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 102 of 2015**

- Smt. Ansuiya Mandavi, W/o Shri Syamlal Mandavi, aged about 50 years, R/o Nahada, Post- Soni Dogri, Thana- Gurur, Distt.- Balod (C.G.).

---- Appellant

Versus

1. Manoj Kumar Sinha S/o Chova Ram, aged about 25 years, R/o Ward No. 13, Sichai Colony, Thana- Gurur, Distt.- Balod (C.G.).
2. Haneef Solanki, Manager Swami Aanand Roadways, Balod Bus Service, Purana Ganj Chauk Revenue/Civil Distt- Rajnandgaon (C.G.).
3. Branch Manager, National Insurance Company Ltd., Kamthi Road, Rajnandgaon, Revenue/Civil Distt- Rajnandgaon (C.G.).

---- Respondents

For Appellant	: Shri Samir Singh, Advocate.
For Respondent No. 1 & 2	: None.
For Respondent No 3.	: Shri R. N. Pusty, Advocate

Hon'ble Shri Justice Gautam Chourdiya
Judgment on Board

18.02.2019

(1) This is claimant's appeal for enhancement of compensation awarded by Motor Accident Claims Tribunal Balod, District Balod (for short 'the Tribunal') in claim case No. 11/2014 vide award dated 1.12.2014, awarding total compensation of Rs.1,68,000/-, alongwith 6% pa simple interest from the date of application till its reliazation, fastening liability of payment of compensation upon respondent No. 3 – National Insurance Company Ltd. to pay compensation to the claimant.

(2) As per averments in the claim petition, when on 2.5.2013, the present

appellant was coming back to home with his brother on motorcycle, at that very time, the respondent No. 1 while driving the offending vehicle (Bus) bearing registration No. C.G.07 E/0389 rashly & negligently, dashed the appellant/injured, as a result of which appellant/claimant sustained grievous injuries including permanent disability to the extent of 40% (Ex.P-60).

(3) Learned counsel for the appellant submits that as per Disability Certificate (Ex.P-60) given and proved by the treating doctor, permanent disability to the extent of 40% caused to the appellant and due to which his earning capacity was adversely affected but the Claims Tribunal has only awarded a meagre sum of Rs. 1,68,000/-. He also submits that no amount awarded under the head of loss of earning during treatment. He further submits that amount awarded under the head of pain & suffering and special diet etc. appear to be on lower side, which deserves to be enhanced suitably as according to Dr. R. K. Mandale (AW-2), due to the injuries sustained by the claimant/injured, she was unable to walk and do her daily routine work.

(4) Learned counsel for respondent No. 3/Insurance Company while opposing the submission made by learned counsel for the appellant would submit that due to the injuries sustained by the claimant, she was taken to the hospital for treatment and, therefore, that permanent injuries suffered by the claimant to the extent of 40%, as mentioned in the disability certificate, can not be considered as permanent disability because Dr. R. K. Mandale (AW-2) has stated in paragraph 6 of his statement that injuries sustained by the claimant on pelvic bone can be recoverable within two or three months and the patient is completely capable to move normally within 3 months, as such, the amount awarded by the Claims Tribunal is just & proper, which does not call for any interference.

(5) I have heard learned counsel appearing for the parties and perused the impugned award including record of both the courts below.

(6) Looking to the paragraph six of the statement of Dr. R. K. Mandale (AW-2), injuries sustained by the claimant on pelvic bone can be recoverable within two or three months and the patient is completely capable to move normally within 3 months therefore, no any earning capacity would be adversely affected due to the injuries sustained by the claimant. The accident occurred in the

years 2013, at that point of time, the income of claimant/injured as Rs. 5,000/- pm as notional basis can safely be considered. The learned Tribunal has not awarded any amount towards loss of earning during treatment (for about four months), therefore the loss of earning of claimant/injured of Rs. 20,000/- (for four months) can safely be taken. Further considering the medicine & treatment expenses of Rs. 1,26,000/- considered by the Tribunal is just & proper. The claimant is also entitled for Rs. 20,000/- towards pain & suffering, Rs. 30,000/- towards loss of amenities for future life, Rs. 10,000/- towards special diet, and towards attendant Rs. 10,000/- and towards transportation Rs. 2,000/- (as awarded by the Tribunal), in the opinion of this Court, amount of compensation deserve to be enhanced in the following manner :-

Sl. No.	Heads	Awarded by the Tribunal	Calculation (in rupees)
01.	For pain & suffering	Rs. 5,000/-	Rs.20,000/-
02.	Loss of amenities in future life	Rs. 25,000/-	Rs. 30,000/-
03.	Towards attendant	Rs. 5,000/-	Rs.10,000/-
04.	Towards special diet	Rs. 5,000/-	Rs.10,000/-
05.	Towards transportation (as awarded by the Tribunal)	Rs. 2,000/-	Rs. 2,000/-
06.	Towards loss of earning capacity		Rs. 20,000/-
07.	Towards medical expenses as awarded by the Tribunal		Rs. 1,26,000/-
08.	Total Compensation		Rs. 2,18,000/

Since the Tribunal has already awarded Rs.1,68,000/-, after deducting the same from the above amount, the claimants are held entitled for additional compensation of Rs. 50,000/- along with interest @ 6% per annum from the date of application till realization.

7. Thus, the appeal filed by the claimant is allowed to the extent indicated hereinabove.

Sd/-

(Gautam Chourdiya)
Judge

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