

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 1397 of 2019**

- State Of Chhattisgarh Through The Sub Engineer, Office Of Sub Divisional Officer, Bhandar Gangrel, Tehsil And District Dhamtari, Chhattisgarh.,

---- Appellant/Non-Applicant No.2**Versus**

1. Devendra Kumar Sahu, S/o Shri Jeevrakhan Sahu Aged About 32 Years R/o Village Bhanpuri, Post Tarsiva, Tehsil Dhamtari, District Dhamtari Chhattisgarh. (**Claimant**)
2. Amit Kumar Dhritlehre S/o Late Shri Budhelal Satnami, Aged About 31 Years R/o House No. H - 65 Gangrel, Post - Rudri, Tehsil Dhamtari, District Dhamtari Chhattisgarh., (**Non-Applicant No.1**)

---- Respondents

For Appellant/State	:	Shri Vimlesh Bajpai, Government Advocate
For Respondent No.1	:	Shri Anil Gulati, Advocate

Hon'ble Shri Justice Sanjay Agrawal**Award/Order on Board****05.11.2019**

1. Heard on admission.
2. This Miscellaneous Appeal has been preferred by Non-Applicant No.2 under Section 173 of the Motor Vehicles Act, 1988 (hereinafter referred to as the Act of 1988) questioning the legality and propriety of the award dated 22.02.2019 passed by the Additional Motor Accident Claims Tribunal, Dhamtari in Claim Case No.99/2018, by which, the Claims Tribunal, while allowing the claim in part, has awarded total amount of compensation to the tune of Rs.1,32,230/- with interest @ 6% per annum from the date of filing of Claim Petition till its realisation. The parties to this Appeal shall be referred hereinafter as per their description in the Court below.

3. Briefly stated the facts of the case are that on 08.03.2015, the Applicant - Devendra Kumar Sahu was going from P.G. College to the Office of Collector by his motorcycle and as soon as he reached near the Ojaswi Nursing Home at Dhamtari, it was dashed vehemently by the offending vehicle (Martial) bearing its registration No.C.G.-02-1240, a Government vehicle. At the relevant time, it was being driven rashly and negligently by its driver, namely, Amit Kumar Dhritlehre (Non-Applicant No.1), as a result of which, the Applicant sustained serious multiple injuries. On account of the alleged accident, a claim enumerated under Section 166 of the Act of 1988 has been made by him stating therein that he is an agriculturist and used to earn Rs.200/- per day and has suffered permanent disability owing to the alleged accident and thus claimed total amount of compensation to the tune of Rs.6,10,000/-.

4. The aforesaid claim has been contested by the Non-Applicants mainly on the ground that the vehicle in question was not involved in connection with the said accident.

5. After considering the evidence led by the parties, it has been held by the Claims Tribunal that the accident occurred on 08.03.2018 due to rash and negligent driving of the driver of the said vehicle, resulting into serious grievous injuries to the Applicant. It held further that the driver of the offending vehicle was holding the valid and effective driving license and that by considering medical bills, observed that a sum of Rs.1,02,230/- has been incurred by him towards his treatment and, as a consequence, awarded amount of compensation to the tune of Rs.1,32,230/- under various heads, along with the interest at the rate of 6% per annum from the date of filing of Claim Petition till its realisation.

6. Being aggrieved, Non-Applicant No.2/State has preferred this appeal. Shri Vimlesh Bajpai, learned Government Advocate appearing for the Appellant/State submits that the award impugned as passed by the Claims

Tribunal holding that the vehicle in question was involved in connection with the said accident is apparently contrary to law. He submits further that the amount of compensation as awarded by the Claims Tribunal is extremely on higher side. The award impugned is, therefore, liable to be set aside.

7. I have heard learned counsel for the appellant and perused the entire record carefully.

8. From perusal of the record, it appears that the alleged accident occurred on 08.03.2018 when the Applicant was going to Collector's Office by his motorcycle and on the fateful day, it was dashed vehemently from its backside by the offending vehicle (Martial). On account of the alleged accident, F.I.R. was lodged by one Gopi Ram Sahu, uncle of the Applicant, immediately on the next date i.e., 09.03.2018. It appears further that on the basis of the said report, an investigation was made by the Investigating Officer and during investigation, the vehicle in question was not only seized from the driver of the offending vehicle but a final report was also filed against the said driver before the concerned Court. A bare perusal of those documentary evidence, marked as Ex.P.1 to Ex.P.4 coupled with the unrebutted statement of the injured/claimant, examined as A.W.1, it is evident that the alleged accident occurred due to rash and negligent driving of the offending vehicle, in which, the Applicant has suffered grievous injuries and was admitted immediately into the Masihi Hospital, Dhamtari and was thereafter referred to M.M.I. Narayana Hospital on 09.03.2018 for his treatment. Perusal of the record would reveal further that a sum of Rs.1,02,230/- was incurred by the Applicant during the course of his treatment and the Tribunal has not committed any illegality in awarding the same. Since the Applicant was in Hospital for his treatment, as observed herein above, therefore, on close scrutiny of the evidence, the Tribunal has awarded further sum of Rs.30,000/- to the Applicant towards special diet, physical agony and also for expenses relating to attendant. Considering the facts and

circumstances of the case, the Claims Tribunal has awarded just and proper compensation payable to the Applicant upon due and proper appreciation of the evidence led by the parties, and therefore, do not call for any interference.

9. Consequently, I do not find any substance in this appeal. The appeal, being devoid of merit, is hereby dismissed at admission stage itself. No order as to costs.

Sd/-

(Sanjay Agrawal)
Judge