

AFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Miscellaneous Appeal (Civil) No. 1729 of 2018

- Amit Kumar Bhagat aged about 24 years, S/o Devcharan Bhagat, R/o – Village Tapkara, Thana Jaspur Nager, Tahsil & District Jaspur (Chhattisgarh)

---- Appellant/Claimant

Versus

1. Naresh Kumar Kewat aged about 30 years, S/o Shyam Kumar Kewat, R/o Jaliyma, Ratanpur Tahsil and District Bilaspur (Chhattisgarh)
(Driver of the offending vehicle Truck No. C.G.10/C/7614)
2. Sharad Kumar Gupta S/o Sitaram Gupta, R/o Yadunandan Nager Tifra Thana Sirgitti, Tahsil and District Bilaspur (Chhattisgarh)
(Owner of the offending vehicle Truck No. C.G.10/C/7614)
3. Branch Manager, The New India Insurance Company Limited, Branch Office 2nd Floor Rama Trade Center, In front of Rajeev Plaza Old Bus Stand Road, Bilaspur, Tahsil and District Bilaspur (Chhattisgarh)
(Insurer of the offending vehicle Truck No. C.G.10/C/7614)

---- Respondents/Non-applicants

For Appellant	:	Shri A.L. Singroul, Advocate
For Respondents 1 & 2	:	None
For Respondent No.3	:	Shri Shivendu Pandya, Advocate

Hon'ble Shri Justice Gautam Chourdiya, J

Judgment on Board

05.02.2019

1. The Claimant/Injured has preferred this appeal under Section 173 of the Motor Vehicles Act, 1988 seeking enhancement of compensation awarded by the Sixth Motor Accident Claims Tribunal, Bilaspur (C.G.) vide award dated 08.05.2018 passed in MACT No. 431 of 2015.
2. The injured- Claimant/Appellant- Amit Kumar Bhagat, aged about 24 years, claimed compensation of Rs.12,20,000/- by filing a claim petition under Section 166 of the Motor Vehicles Act, 1988 for injury sustained by him in the motor accident.
3. Brief facts of the case are that on 15.03.2015 while Claimant- Amit Kumar Bhagat along with his friends namely Satish Ekka and Pramod Sidar was standing by the road side on Jarhabhata Road a bit ahead from Maharana Pratap Square, the offending vehicle Truck bearing registration No. CG-10/C/7614 which was being

driven by non-applicant No.1, 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 Claimant along with his friends from back side. As a result thereof, Satish Ekka died and Claimant- Amit Kumar Bhagat and Pramod Sidar both sustained grievous injuries.

4. The learned Tribunal, in the impugned award, has awarded a compensation of Rs.1,57,551/- in favour of the Appellant/Claimant with interest @ 6% per annum from the date of application till its realization and has fastened the liability upon the non-applicants No. 1 to 3 jointly and severally to pay compensation to the Claimant.

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

6. Learned counsel for the Appellant/Claimant submits that prior to the accident, the Claimant used to earn Rs.10,000/- per month by doing private job. He further submits that the work of Claimant would have suffered for 2-3 months due injury caused to him and the Tribunal has awarded only Rs. 1,47,551/- towards medical expenses and Rs.10,000/- towards pain & suffering as well as other incidental expenses in the form of diet and transportation which is on the lower side deserves to be enhanced suitably. He also submits that no amount has been awarded to the Claimant towards loss of working during the period of his treatment and also toward attendant.

7. On the other hand, learned counsel for Respondent No.3/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.

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

9. As regard income of the Claimant, though the Claimant has pleaded that he used to earn Rs.10,000/- per month by doing private job, however, no evidence in support thereof has been adduced but looking to the injury caused to the Claimant,

he definitely would not work for three months. Therefore, in these circumstances, in absence of any proof regarding the income, the income of the Claimant is considered as Rs.5,000/- per month as per minimum wages at the relevant time and as such awarded Rs.15,000/- for three months towards loss of income. Further, looking to the injury caused as per documents regarding treatment of the Claimant as Ex.-A/6 to Ex.-A/17 & medical bills Ex.-A/18 to Ex.-A/59, therefore, he is entitled to Rs.15,000/- towards pain and suffering for injury caused by him. Thus, the Claimant/Appellant is entitled for compensation in the following manner:-

Sl.No.	Heads	Calculation (In rupees)
1.	For medical expenses	Rs.1,47,551/- (as awarded by the Tribunal)
2.	Loss of three months income of the Claimant @ Rs.5,000/- per month	Rs.15,000/-
3.	For diet and transportation	Rs.10,000/- (as awarded by the Tribunal)
4.	For pain & suffering	Rs.15,000/-
	Total Compensation	Rs.1,87,551/-

10. Since the Tribunal has already awarded Rs.1,57,551/-, after deducting the same from the above amount, the Claimant/Appellant is held entitled for additional compensation of Rs.30,000/- 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