

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 78 of 2019**

1. Tushar Sahu S/o Manohar Sahu, Aged About 6 Years, Minor Through Natural Guardian Father Manohar Sahu S/o Ganpat Ram Sahu @ Gangaram Sahu, Aged About 30 Years, R/o Village Navagaon Girjaband, Post Office Ratanpur and P.S. Ratanpur, Tahsil Kota, District- Bilaspur, Chhattisgarh.

---- Appellant/Claimant**Versus**

1. Ram Kumar Nishad S/o Bhajenram @ Bhaiya Ram Nishad Aged About 47 Years, Occupation Driver, R/o Padav Para, Mungeli, Tahsil And District- Mungeli, Chhattisgarh. (Driver of the Vehicle Bus No. C.G. 28 G 0103).
2. Abdul Haleem S/o Late Abdul Gaffar R/o Bada Bazarpara, Mungeli, Tahsil And District- Mungeli, Chhattisgarh. (Registered Owner of the Vehicle Bus No. C.G. 28 G 0103).
3. The Oriental Insurance Company Limited, Through Divisional Manager, The Oriental Insurance Company Limited, Divisional Office, Rama Trade Center, First Floor In Front Of Rajiv Plaza, Old Bus Stand, Tahsil And District- Bilaspur, Chhattisgarh. (Insurance Company of the Vehicle Bus No. C.G. 28 G 0103).

---- Respondents**MAC No. 71 of 2019**

1. Manohar Sahu S/o Ganpat Ram Sahu @ Gangarfam Sahu Aged About 30 Years Occupation Driver, R/o Village Navagaon (Girjaband), Post Office And P.S. Ratanpur, Tahsil Kota, District Bilaspur Chhattisgarh.

---- Appellant/Claimant**Versus**

1. Ram Kumar Nishad S/o Bhajeram @ Bhaiya Ram Nishad Aged About 47 Years Occupation Driver, R/o Padav Para, Mungeli, Present Address Kharripara, Mungeli, Post Office Mungeli, Tahsil And District Mungeli Chhattisgarh. (Driver of the Vehicle Bus No. C.G. 28 G 0103).
2. Abdul Haleem S/o Late Abdul Gaffar R/o Bada Bazar Para, Mungeli, Tahsil And District Mungeli Chhattisgarh. (Registered Owner of the Vehicle Bus No. C.G. 28 G 0103).
3. The Oriental Insurance Company Limited Through Divisional Manager, The Oriental Insurance Company Limited, Divisional Office, Rama Trade Center, First Floor In Front of Rajiv Plaza, Old Bus Stand, Bilaspur Chhattisgarh. (Insurance Company Of The Vehicle Bus No. C.G. 28 G 0103).

For Appellant : Shri Yogendra Pandey, Advocate.
For Respondent No.3 : Shri P.K. Tulsyan, Advocate.

Hon'ble Shri Gautam Chourdiya, J

Judgment On Board

09/04/2019

- 1) As both these appeals filed under section 173 of Motor Vehicles Act, 1988 arises out of the same accident occurred on 11/07/2016 involving vehicle Bus registration No. CG28 G 0103, in which the claimants suffered grievous injuries, they are being disposed of by this common judgment.
- 2) MAC No. 78/2019 has been filed by injured claimant Tushar Sahu, aged about 6 years through his natural guardian father Manohar Sahu against the above award passed in claim case No. 240/2017; whereby the Tribunal has awarded a sum of Rs. 58,044/- with interest @ 6% per annum from the date of application till realization, fastening liability on the non-applicants jointly and severally.
- 3) MAC No. 71/2019 has been filed by injured claimant Manohar Sahu against the above award passed in claim case No. 242/2017; whereby the Tribunal has awarded a sum of Rs. 2,02,761/- with interest @ 6% per annum from the date of application till realization, fastening liability on the non-applicants jointly and severally.
- 4) As per averments in the claim petitions, on the date of accident 11/07/2016 at around 07:30 a.m. Tushar Sahu, aged about 6 years, alongwith his father Manohar Sahu, aged about 30 years, Manohar Sahu earning Rs. 350 to 400 per month as a Driver was going to Telia Puran by motorcycle bearing No. CG28 2482. However, on the way non-applicant No. 1 by driving Bus bearing No. CG28 G 0103 in a rash and negligent manner dashed the said motorcycle from opposite direction, as a result of which both

Tushar Sahu and Manohar Sahu suffered grievous injuries. At the time of accident the offending vehicle was owned by non-applicant No. 2 and insured with non-applicant No. 3.

- 5) On claim petitions under section 166 of Motor Vehicles Act, 1988 being filed by the claimants, the Tribunal considering the evidence led by the parties by the separate awards granted compensation in favour of the claimants as mentioned above.
- 6) **MAC No. 78/2019** :- Learned counsel for the appellant/claimant submits that though he has sought enhancement of compensation on various grounds as mentioned in the memo of appeal but he is not pressing all those grounds and is seeking enhancement of the compensation only to the extent that the claimant may be awarded the sum of Rs. 10,000/- for the attendant which is not been granted by the Tribunal.
- 7) **MAC No. 71/2019** :- Learned counsel for the appellant/claimant submits that claimant Manohar Sahu remain admitted in hospital for a long time in the month of July, August, October and November but no amount towards attendant has been granted by the Tribunal. Further the Tribunal has wrongly granted Rs. 10,000/- towards loss of earning for two months @ Rs. 5000/- per month; whereas looking to the period of hospitalization and nature of injuries it should have granted amount towards loss of earning for five months. He submits that though he has assailed the award on various grounds as mentioned in the memo of appeal, however, he is not pressing all those grounds and is confining his argument to the above extent only.
- 8) On the other hand, learned counsel for the respondent/Insurance Company supports the impugned awards and submits that the Tribunal considering all the relevant aspects of the matter including the oral and documentary evidence adduced by the party has rightly awarded compensation in favour of claimant which requires no interference by this Court.

- 9) No counter appeal has been filed by the respondents as submitted by learned counsel for the appellant.
- 10) Heard learned counsel for the parties and perused the material available on record.
- 11) **MAC No. 78/2019** :- From the perusal of the impugned award it is seen that no amount has been awarded by the Tribunal in favour of injured claimant Tushar Sahu towards attendant. Therefore, looking to the age of minor injured claimant and the period of his hospitalization as also gravity of injury suffered by him, this Court is of the opinion that the claimant is entitled for a sum of Rs. 5,000/- towards attendant. This additional amount of compensation of Rs. 5,000/- shall carry interest @ 6% per annum from the date of application till realization.
- 12) **MAC No. 71/2019** :- Considering the facts and circumstances of the case, the oral and documentary evidence available on record, the period of hospitalization of the claimant Manohar Sahu, the nature and extent of injuries suffered by him as also the nature of his job, this Court is of the opinion that the claimant is entitled for Rs. 15,000/- towards loss of earning for a period of five months @ Rs. 5000/- per month and also entitled for Rs. 10,000/- towards attendant.
- 13) In the result :-
 - i. **MAC No. 78/2019** is allowed with modification in the impugned award to the extent that injured claimant Tushar Sahu is entitled for additional compensation of Rs. 5,000/- towards attendant with interest @ 6% per annum from the date of claim petition till realization. However, rest of the conditions of the impugned award shall remain intact.
 - ii. **MAC No. 71/2019** is allowed with modification in the impugned award to the extent that injured claimant Manohar Sahu for sum of Rs. 25,000/- towards loss of earning for five months. Since the Tribunal has already awarded Rs. 10,000/-

towards loss of earning for two months, he is entitled for additional compensation of Rs. 15,000/- towards loss of earning for three more months, in addition thereto the claimant is also entitled for a sum of Rs. 10,000/- towards attendant. In other words the claimant is entitled for additional compensation of Rs. 25000/- with interest @ 6% per annum from the date of claim till realization. However, rest of the condition of impugned award shall remain intact.

**-Sd/-
(Gautam Chourdiya)
Judge**

Chandrakant