

NAFR

HIGH COURT OF CHHATTISGARH BILASPUR
M. A. (C) No. 1017 of 2014

1. Rakesh Sahu S/o Shri Kalyan Singh, aged about 22 years, Driver, R/o village Kansa, P.S. & Tah. Dhabhara, Distt. Janjgir-Champa, Civil and Revenue Distt. Janjgir-Champa (C.G.).
2. Kalyan Singh S/o Shri Deonarayan, aged about 50 years, Vehicle Owner, R/o village Kansa, P.S. & Tah. Dhabhara, Distt. Janjgir-Champa, Civil and Revenue Distt. Janjgir-Champa (C.G.).

---- Appellants

Versus

Chhatram S/o Shri Bhagau Ram, aged about 22 years, R/o Village Kansa, P.S. & Tah. Dhabhara, Distt. Janjgir-Champa (C.G.).

---- Respondent

For Appellants	: Shri Manoj Kumar Sinha, Advocate
For Respondent	: Shri Ishwar Jaiswal, Advocate

Hon'ble Shri P. R. Ramachandra Menon, Chief Justice
Hon'ble Shri Parth Prateem Sahu, Judge

Judgment on Board

Per Parth Prateem Sahu, Judge

14/09/2020

1. Appellants/driver and owner of Motorcycle bearing registration No.CG-11/BC/9173 (hereinafter referred to as 'offending vehicle') have filed this appeal under Section 173 of the Motor Vehicles Act, 1988 (hereinafter referred to as 'M.V. Act') challenging the award dated 08/07/2014 passed by Second Additional Motor Accident Claims Tribunal Sakti, District Janjgir Champa, Chhattisgarh (hereinafter referred to as 'Claims Tribunal') in Motor Accident Case No.43 of 2012

whereby learned Claims Tribunal allowed the claim application in part and awarded a total sum of Rs.1,58,500/- as compensation in an injury case.

2. Brief facts relevant for disposal of this appeal, are that, on 02/01/2011, at about 5.00 p.m., respondent/claimant was travelling on offending vehicle, driven by non-applicant No.1. When they reached near Kansa turn, non-applicant No.1/appellant No.1 drove the offending vehicle rashly and negligently, on account of which, respondent/claimant who was travelling as a pillion rider on offending vehicle fell down and suffered grievous injuries. He was taken to Government Hospital, Dabhara, but looking to seriousness of the injuries sustained by him, he was shifted to Modern Medical Institute, Raipur.
3. Respondent/claimant filed an application under Section 166 of the M.V. Act seeking compensation of Rs.20,41,165/- mentioning therein that on the date of accident, he was aged about 22 years, earning Rs.3,000/- per month from the work of Labourer, but on account of the injuries suffered by him in a motor accident, he is unable to work as he was doing prior to the date of accident.
4. Appellants/Non-applicants No.1 and 2, submitted reply to claim application denying the pleadings made therein. It was pleaded that claimant was not travelling on the offending

vehicle driven by non-applicant No.1 nor non-applicant No.1 was driving offending vehicle rashly and negligently. Non-applicant No.1 is falsely implicated in a criminal case.

5. Learned Claims Tribunal based on the pleadings made on behalf of respective parties, formulated as many as five issues for consideration. On appreciation of the pleadings, evidence and material placed on record by the respective parties, learned Claims Tribunal held that due to rash and negligent driving of non-applicant No.1 claimant pillion rider of the offending vehicle, fell down and suffered grievous injuries. On assessing the income of the claimant as Rs.3,000/- per month, awarded a total sum of Rs.1,58,500/- as compensation in an injury case.
6. Shri Manoj Kumar Sinha, learned counsel for the appellants submits that learned Claims Tribunal failed to consider that the claimant was travelling on the offending vehicle as pillion after consuming liquor and fell down on account of his own negligence. He further submits that the claimant has failed to prove the fact of accident by placing cogent and reliable piece of evidence. It is contended that the claimant himself has admitted in his evidence that his friends have consumed liquor, therefore, there is presumption that claimant has also consumed liquor along with his friend including non-applicant No. 1/appellant No.1. There was negligence on the

part of claimant. It was further contended that learned Claims Tribunal has awarded excessive amount of compensation in the facts and circumstances of the case, which is required to be reduced suitably.

7. Per contra, Shri Ishwar Jaiswal, learned counsel for the respondent/claimant submits that non-applicant No.1 has consumed liquor along with others, but claimant has not consumed liquor. He further submits that no evidence has been placed on record by the appellants that on the date of accident, claimant had consumed liquor; there is no mention about this fact in the medical document also. It is contended that the claimant has examined Santosh Das (AW-2) to prove the accident and injuries as also Dr. Rajesh Jain (AW-3) and Lunik Yadu (AW-4) to prove the injuries suffered by him and treatment. It is further contended that the amount awarded by learned Claims Tribunal cannot be said to be excessive in the facts of the case where the medical bill placed on record as Ex.P/11 itself shows the expenditure of Rs.1,23,465/-.
8. We have heard learned counsel for the respective parties and perused the record carefully.
9. Appellants have not examined any witness before learned Claims Tribunal to prove their case. Learned counsel for the appellants before this Court also could not able to point out

any document to prove consumption of liquor by the claimant on the date of accident. We have also perused the evidence of claimant relied upon by learned counsel for the appellants, in which, claimant has specifically mentioned that his friends consumed the liquor in hotel and denied very specifically, the suggestion that he also consumed liquor along with them. There is no such pleading in reply.

10. In view of aforementioned facts available on record and in absence of any evidence led by appellants/non-applicants No. 1 and 2, submission made by learned counsel for the appellants that claimant suffered injuries on account of his own negligence as he consumed liquor, is not sustainable and it is hereby rejected.
11. So far as the ground raised by learned counsel for the appellants that learned Claims Tribunal awarded excessive amount of compensation is concerned, we have perused the impugned award wherein learned Claims Tribunal awarded Rs.1,24,000/- towards medical expenditure, Rs.1,500/- towards conveyance expenses, Rs.3,000/- towards loss of income for one month, Rs.22,000/- towards loss of future income, Rs.5,000/- towards pain and suffering and Rs.3,000/- towards special diet. Perusal of Ex. P/11 (medical bill) would show that the claimant took treatment as inpatient in Modern Medical Institute, Raipur from 03/01/2011 to

03/02/2011 and medical bill has been issued by the Hospital to the tune of Rs.1,23,465/-.

12. Looking to the nature of injury i.e. head injury suffered by the claimant; on the date of admission to Hospital at Raipur, claimant was unconscious as well as the evidence of Dr. Rajesh Jain (AW-3), who in his evidence has stated that claimant suffered grievous injuries on his head and hand and on CT-Scan, it was found blood clot on his brain, his hand was operated and fixed with plate, we do not find that the award of compensation by Claims Tribunal to be on higher side. In view of aforementioned facts, submission made by learned counsel for the appellants that learned Claims Tribunal has awarded excessive amount towards medical expenditure, is not sustainable and it is hereby rejected.
13. For the reasons stated herein-above, we do not find any tenable ground in the appeal to interfere with the award dated 08/07/2014. The appeal being devoid of substance, is liable to be and is hereby dismissed.

Sd/-

(P. R. Ramachandra Menon)
Chief Justice

Sd/-

(Parth Prateem Sahu)
Judge