

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR
MAC No. 628 of 2015

Ramnath S/o Ferha Yadav Aged About 46 Years R/o Village Koransi,
 Police Station Kharora, Tahsil Aarang, Distt. Raipur Chhattisgarh.

---- Appellant/Claimant

Versus

1. Rajkumar S/o Meghnath Sahu Aged About 22 Years R/o Sakri Post-Koransi, Thana- Kharora, Distt. Raipur Chhattisgarh.
2. Vishnu Prasad S/o Bhagwan Deen Verma R/o Chorbhatthi Koransi, Thana - Kharora, Distt. Raipur Chhattisgarh.
3. Santosh Kumar S/o Nandu Sahu R/o Sakri, Post-Koransi, Thana Kharora, Distt. Raipur Chhattisgarh.
4. Manager Royal Sundaram Alliance Insurance Co. Ltd. Vanijya Bhavan, Devendra Nagar Road, Distt. Raipur Chhattisgarh.

--- Respondents

For Appellant	: Mr. Anil Gulati, Advocate.
For Respondent No. 2	: Mr. G.V. K. Rao, Advocate.
For Respondent No.1 & 3	: Mr. S.P. Sahu, Advocate.
For Respondent No.4	: Shri Rohitashva Singh, Advocate on behalf of Shri Mr. N.K. Thakur, Advocate

Hon'ble Shri P. R. Ramachandra Menon, CJ
Hon'ble Shri Parth Prateem Sahu, J

Order On Board

Per Parth Prateem Sahu, J

21/05/2020

1. Appellant/claimant has filed this appeal under Section 173 of the Motor Vehicles Act, 1988 (for short 'the Act of 1988') seeking enhancement of compensation awarded to him by learned 3rd Additional Motor Accident Claims Tribunal, Balodabazar in Claim Case No.73/2013, on account of grievous injuries suffered by him in a motor vehicle accident.
2. Facts of the case, in brief, are that on 16.01.2011, appellant along with other persons, who were more than 15 in number, was traveling on Tractor & Trolley bearing registration No.CG04-DA-1505 & CG04-D-5141

respectively (for short 'the offending vehicle). They were returning from village Rasota to their village Sakri after celebrating birth ceremony of the child of daughter of one Mantram Yadav. On account of rash and negligent driving by the driver, said tractor-trolley overturned in between village Rasota & Palari Road, as a result appellant and three other persons namely Nand Kumar Yadav, Om Prakash Yadav & Sohaga Bai suffered grievous injuries. They were immediately taken to the Government Hospital, Palari where primary treatment was given to them and thereafter they have been referred to Raipur for better treatment. Matter was reported to Police Station Palari based on which crime bearing No.14/2011 for the offence under Sections 279, 337 & 304 A of the IPC was registered against the driver of offending vehicle.

3. On account of injuries suffered by him, claimant filed application under Sections 166 of the Act of 1988 before Claims Tribunal claiming an amount of Rs.5,00,000/- as compensation on the ground that he has suffered permanent disability due to fracture injury suffered by him on his right leg in the said accident.
4. Claim of appellant/claimant was resisted by non-applicants No.1,2 & 3 on the grounds that the vehicle was not driven rashly and negligently and accident took place on account of mechanical fault of the vehicle. While denying the unadmitted facts it was also pleaded that the tractor was insured with non-applicant No.4/insurance company.
5. Respondent No.4/Insurance Company while denying the facts pleaded in claim application that claim of compensation is exaggerated, the vehicle was carrying passengers though there is no seating capacity in tractor except driver. There was no effective driving license with the driver of

offending vehicle, therefore, liability for payment of compensation would be on driver & owner.

6. On appreciation of pleadings and evidence placed on record by respective parties, the Tribunal partly allowed claim application by holding that appellant had suffered grievous injury in the accident which was caused due to rash & negligent driving of the driver of offending vehicle and awarded a total sum of Rs.24,000/-as compensation, that is to say, Rs.6,000/- for medical expenses, Rs.2,000/- for special diet, Rs.10,000/- for pains & sufferings and Rs.6,000/- for loss of income during treatment period.
7. Learned counsel for appellant submits that the Tribunal committed error in not awarding any amount towards permanent disability. Even the medical bills produced before the Tribunal have not been properly considered while fixing the amount of compensation. He further submits that the amount awarded under other conventional heads are also on lower side and need to be enhanced suitably.
8. Per contra, learned counsel for respondents submit that on the basis of pleadings and evidence available on record and taking into consideration the entire medical documents including bills & prescription produced by appellant, the Tribunal has awarded just and reasonable amount of compensation under all the heads, which does not call for any interference.
9. We have heard learned counsel for the parties and perused the record.
10. As regards the first argument advanced by learned counsel for appellant that the Tribunal erred in not awarding any amount towards permanent

disability. Considering the material available on record as also admission made by the learned counsel for appellant that no doctor was examined to prove that appellant suffered permanent disability due to injuries sustained by him in the accident, we are of the view that in absence of any evidence to prove that appellant suffered permanent disability due to injuries suffered by him in accident, the Tribunal has not committed any illegality or infirmity in not awarding any amount under the head of 'permanent disability'.

11. Coming to next ground raised by learned counsel for appellant that meager amount was awarded under other heads. After going through the entire material available on record, we have noticed that the Tribunal considering the medical bills & other documents produced by claimant/appellant has properly awarded Rs.6,000/- towards medical expenses, which, in our opinion, is just and reasonable and does not call for any interference. Further, the amounts awarded under other heads, like special diet, pains & sufferings; loss of income during treatment period, are also just & reasonable. Learned Claims Tribunal awarded compensation in almost all heads for which the claimant was entitled for in view of the facts available and submission made before us.

12. In view of the above discussion, we are of the considered opinion that the Tribunal, after considering all the aspects, has awarded just & reasonable compensation to appellant. The appeal being merit-less which is liable to be and is hereby dismissed.

Sd/-
(P.R. Ramamchandra Menon)
Chief Justice

Sd/-
(Parth Prateem Sahu)
Judge