

HIGH COURT OF CHHATTISGARH, BILASPUR

MAC No. 1541 of 2015

- Mohd. Israrul Haque, S/o Vayjul Haque, Aged About 45 Years, Occupation- Service, R/o Mohalla- Mominpura, Post- Ambikapur, P.S. And Tahsil- Ambikapur, Revenue and Civil District- Surguja, Chhattisgarh.....Claimant

---- Appellant

Versus

1. Ajay Singh S/o Shri C.D.Singh, Aged About 40 Years Occupation- Contractor, R/o Mohalla- Thanganpara, Post- Ambikapur, P.S. And Tehsil- Ambikapur, Revenue And Civil District- Surguja, Chhattisgarh
2. Rajaram Yadav S/o Mohar Yadav, Aged About 30 Years Occupation- Driver, R/o Village- Semardih, Post- Baheradih, P.S.- Lundra, Revenue And Civil District- Surguja, Chhattisgarh, Presently Residing At- Takiya Road, P.S. And Tehsil- Ambikapur, Civil And Revenue District- Surguja, Chhattisgarh (Driver Of The Offending Vehicle)
3. Branch Manager, The Oriental Insurance Company Limited, Branch Office- MG Road Ambikapur, PS And Tehsil- Ambikapur, Civil And Revenue District- Surguja, Chhattisgarh (Insurer of The Offending Vehicle)
4. Smt. Rateen Tripathi, D/o Late Ravishankar Tripathi, Occupation- M.L.A. R/o Mohalla- Khajrupara, Basantlal Gali, P.S. And Tehsil- Ambikapur, Civil And Revenue District- Surguja, ChhattisgarhNon-Claimants

---- Respondents

For Appellant	: Shri Surfaraj Khan, Advocate
For Respondent-3/Insurance Company	: Shri Sandeep Shrivastava, Advocate

Hon'ble Shri Justice Parth Prateem Sahu

Order on Board

12.03.2020

1. Challenge in this appeal is to the impugned award dated 04.08.2015 passed in Claim Case-171 of 2012 by the 3rd Additional Motor Accident Claims Tribunal, Ambikapur (for short, 'Claims Tribunal'), whereby learned Claims Tribunal allowed the claim application in part and awarded a total sum of Rs.50,000/- as compensation along with interest @ 6% per annum from the date of filing of claim application till its realisation, in an injury case.

2. Brief facts relevant for disposal of this appeal are that on 24.09.2011, appellant/claimant was travelling on his Motorcycle -MP 27 E 2896 and going to village Aara, District Balrampur from village Mominpura, District Ambikapur. While so, one Innova vehicle-CG 15 B 1652 (hereinafter referred to as offending vehicle), driven by respondent-2/non-applicant-2 dashed Motorcycle of the appellant due to which he suffered injuries over his person including fracture injury of his left Tibia and further suffered fracture injury on his knee. Accident was reported to concerned Police Station upon which Crime was registered against respondent-2. Appellant after recovery from the injuries suffered by him, filed claim application before Claims Tribunal, claiming Rs.2,70,000/- against respondent-2. Appellant pleaded that he incurred expenses of Rs.1,00,000/- for his treatment, including Rs.10,000/- for conveyance, Rs.10,000/- for boarding and lodging during treatment and Rs.5,000/- towards diet. It was also pleaded in Claim application that appellant also incurred expenses of Rs.10,000/- towards special diet and suffered loss of income of Rs.1,00,000/-.

3. Non-applicants No.1 and 2 did not appear before learned Claims Tribunal even after service of notice and were proceeded *ex-parte*.

4. Non-applicant No.3/Insurance Company submitted reply to the claim application and pleaded that on the date of accident respondent-2, driver of offending vehicle was not possessing a valid and effective driving license and non-applicant 1, who is owner of offending vehicle permitted respondent- 2 to drive the offending vehicle. Insurance Company of Motorcycle has not been arrayed as party in Claim application.

5. Non-applicant No.4, who is owner of offending vehicle submitted reply to the claim application and pleaded that offending vehicle was insured with non-applicant No. 3 Insurance Company; non-applicant 2, driver of offending vehicle was possessing a valid and effective driving license on the date of accident; and further, the accident from the offending vehicle itself was denied by non-applicant 4.

6. Learned Claim Tribunal, on appreciation of pleadings and evidence placed on record by respective parties, held that appellant suffered injuries in motor accident by offending vehicle, driven by non-applicant 2; appellant did not suffer any permanent disability; there was no violation of conditions of Insurance Policy and awarded a total sum of Rs.50,000/- towards compensation.

7. Shri Surfaraj Khan, learned counsel for the appellant submits that learned Claims Tribunal erred in awarding meagre amount of compensation. The amount of Rs.50,000/- as assessed by the Tribunal towards attendant, conveyance expenses, special diet and towards mental pain and suffering which is on lower side, comparative to the nature of injury and the course of treatment taken by the appellant. He also submits that no amount is awarded towards permanent disability suffered by him only on the ground that no disability certificate was produced before the Claims Tribunal. Amount of medical expenditure though ascertained to the tune of Rs.31,200/- but not awarded.

8. Per contra, Shri Sumeet Shrivastava, learned counsel for the Insurance Company submits that looking to the nature of injuries suffered by the

appellant and documents placed on record, learned Claims Tribunal awarded reasonable sum of Rs.50,000/-, which does not call for any interference. Permanent disability is not proved by producing cogent evidence. Appellant is government employee and is entitled for reimbursement of medical bills.

9. I have heard learned counsel for the respective parties and perused the record.

10. Appellant has produced receipts of payment of amount towards medical expenditure as Ex.P1 to P17 and copy of payment receipt of ambulance as Ex.P20. Learned Claims Tribunal on appreciation of documentary evidence placed on record by the appellant, recorded a finding that appellant took treatment as 'In-patient' at Tejkaur Nursing Home, Bilaspur from 28.09.2011 to 01.10.2011 and it is not in dispute that appellant is resident of Ambikapur. Learned Claims Tribunal has awarded a total sum of Rs.31,149/-, rounded off to Rs.31,200/- towards medical expenses, exhibited from P1 to P17.

11. As per submissions and argument raised by learned counsel for the appellant that learned Claims Tribunal has not awarded any amount towards conveyance and for Ambulance for bringing the appellant from Hospital at Bilaspur to Ambikapur after treatment, for which receipt of payment has been annexed as Ex.P20 for an amount of Rs.3,776/-. Looking to the nature of injuries suffered by the appellant as well as treatment taken by him at Tejkaur Nursing Home, Bilaspur and also amount of expenditure incurred by him for other miscellaneous expenses, learned Claims Tribunal has awarded only Rs.18,800/- towards conveyance, special diet, pain and suffering and also

conveyance expenses, attendant and boarding and lodging expenses, which in the opinion of this Court, appears to be on lower side.

12. Taking into consideration that learned Claims Tribunal has not specifically mentioned in para 18 of award while awarding amount of Rs.50,000/- for the medical but amount of expenditure incurred by appellant in the opinion of this Court, it will meet the ends of justice if the appellant is awarded further sum of Rs.10,000/- towards compensation in addition to the amount awarded by the Claims Tribunal. Appellant will be entitled for amount of Rs.10,000/- towards compensation.

13. In view of above, appeal is allowed in part. Appellant will be further entitled for an amount of Rs.10,000/- in addition to the amount of Rs.50,000/-, already awarded by learned Claims Tribunal towards compensation.

14. The enhanced amount of compensation be deposited within a period of three months from the date of receipt of copy of this order, failing which, it shall carry interest @ 6% per annum.

15. No order as to costs.

Sd/-
(Parth Prateem Sahu)
JUDGE