

HIGH COURT OF CHHATTISGARH, BILASPUR

MAC No.547 of 2014

1. Aashu Jaiswal, S/o Anil Jaiswal, aged about 22 years (NA1 Driver)
 2. Smt Chanda Jaiswal, W/o Anil Jaiswal, aged about 40 years (NA2 Owner)
- Both are residents of village Ramanujnagar, Post & PS Ramanujnagar, Dist Surajpur (CG)

---- Appellants

Versus

- Bachan Ram, S/o Dannu Ram, Caste Gond, aged about 50 years, Occupation Service, R/o village Ramnagar (Patrapara), PS Visrampur, Dist.Surajpur (CG) (Claimant)

-----Respondent

For Appellants	: Shri Hari Om Rai, Advocate
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For Respondent	: Shri Shakti Raj Sinha, Advocate
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Hon'ble Shri PR Ramachandra Menon, Chief Justice &
Hon'ble Shri Justice Parth Prateem Sahu
Order on Board

Per Parth Prateem Sahu, J.
03.09.2020

1. Driver and owner of the offending vehicle filed this appeal under Section 173 of the Motor Vehicles Act, 1988 challenging the impugned award dated 09.04.2014 passed in Claim Case-123 of 2012 by the Motor Accident Claims Tribunal (for short, 'Claims Tribunal') whereby learned Claims Tribunal allowed the claim application in part and awarded a sum of Rs.1,20,350/- as total compensation in an injury case.
2. Facts relevant for disposal of this appeal are that Motorcycle bearing No.CG15-7050 (for short, "offending vehicle") was driven by NA1 and owned by NA2 on the date of accident ie on 05.11.2011. On that day, claimant Bachan Ram was returning to his house at village Ramnagar, Patrapara from Devnagar on his Motorcycle along with his wife

Sonkaliya. When he reached village Krishnapur, NA1 while driving the offending vehicle rashly and negligently, dashed Motorcycle of the claimant. In the aforementioned accident, claimant suffered grievous injuries over his head and leg. His wife also suffered injuries. The claimant took treatment at Apollo Hospital, Bilaspur, incurred expenditure on medical treatment and others. After some recovery, he filed an application under Section 166 of the Motor Vehicles Act, 1988 seeking compensation of Rs.7,00,000/- from the Non-applicants ie NA1 and NA2, driver and owner of offending vehicle.

3. NA1 and 2 submitted reply to claim application and pleaded that no accident took place from the offending vehicle nor the claimant suffered any grievous injury. Claim application has been filed on false and fabricated grounds. The offending vehicle was insured for a period from 14.07.2011 to 13.07.2012 and pleaded for dismissal of the claim application.

4. Learned Claims Tribunal upon appreciation of pleadings and evidence placed on record by respective parties, had held that NA1 while driving the offending vehicle rashly and negligently, dashed the claimant/respondent herein on 05.11.2011 at about 7.30 pm; caused grievous injuries to him; and awarded a sum of Rs.1,20,350/- as compensation and fastened the liability of payment of compensation upon NA1 and NA2 jointly and severally.

5. Shri Hari Om Rai, learned counsel for the appellants submits that learned Claims Tribunal has not considered the entire material and

evidence placed on record. He further submits that the appellants have very specifically pleaded that the offending vehicle was insured for a period from 14.07.2011 to 13.07.2012 and there was valid and effective license with NA1. Copy of license could not be placed on record before learned Claims Tribunal, but placed before this Court along with covering memo dated 02.09.2020, and under this license, NA1 was authorised to drive LMV MCWG (Light Motor Vehicle, Motorcycle with gear). He also pointed out that respondent-claimant is employee of SECL (South Eastern Coalfields Limited) and definitely could have taken reimbursement of the medical expenditure incurred by him for his treatment.

6. Shri Shakti Raj Sinha, learned counsel appearing for respondent-claimant supported the award passed by the learned Claims Tribunal.

7. We have heard learned counsel for the respective parties and also perused the record.

8. To appreciate the submissions made by learned counsel for the appellants, we have perused the record.

9. The appellants have filed their reply to the claim application but have not entered into the witness box to prove their case. Further, in the reply, though they have only pleaded with regard to the period of insurance of the offending vehicle, but they have neither named the Insurance Company with which the offending vehicle was insured nor placed on record the copy of the Insurance Policy before the learned Claims Tribunal. The appellants though have tried to place some documents showing that NA1 was possessing valid and effective driving

license with him on the date of accident along with covering memo, but before this Court also they have not produced copy of the Insurance Policy.

10. In view of above, it is presumed that on the date of accident the offending vehicle was not insured. In absence of submitting of copy of Policy, the submission made by learned counsel for the appellant that offending vehicle was duly insured is not sustainable and is hereby repelled.

11. So far are the argument raised by learned counsel for the appellants that the respondent/claimant is an employee of the SECL and entitled for medical reimbursement, in this regard also, he has not placed any document or material to show that medical expenses incurred by the respondent/claimant were reimbursed from the employer/SECL under whom the respondent is employed. Contrary to the said submission in the claim application, the original bills and the medical reports are available on record which were issued by the hospital. Even in cases of the medical reimbursement, any employee of the Government or Pvt Company, has to submit original bills and cash receipts for which he has made payment for claiming the reimbursement, which does not appear in this case. All the original bills are available on record marked as Ex.A4 to A35. The appellants have not placed any evidence/document after obtaining the information from the employer of the respondent/claimant that the amount of medical bills with regard to Ex.A4 to A35 which were enclosed in the claim case have been claimed and claimant has taken reimbursement of medical bills. In absence of any such material, taking into consideration

the evidence on record, particularly the original bills available on record, the submission made by learned counsel for the appellants cannot be accepted and it is hereby repelled.

12. The other ground which the appellants have taken in this appeal with regard to the award of excessive amount of compensation to the respondent/claimant, out of total amount of compensation of Rs.1,20,350/-, compensation towards medical expenses is of Rs.90,350/- and only Rs.30,000/- has been awarded towards transportation, mental pain and suffering, attendant and special diet, which does not appear to be excessive amount of compensation awarded to the respondent in the facts of the case.

13. For the foregoing reasons, we do not find any merit in this appeal, the appeal being devoid of any substance, it is liable to be and is hereby dismissed.

Sd/-
(PR Ramachandra Menon)
Chief Justice

Sd/-
(Parth Prateem Sahu)
Judge