

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 296 of 2014****(Arising out of Award dated 14.10.2013 passed by the Motor Accident Claims Tribunal, Jagdalpur, District – Bastar in Claim Case No.241/2011)**

- Ramapati Prashad Tiwari, S/o Kamta Prashad Tiwari, aged about 59 years, R/o Nayamunda, Jagdalpur, District – Bastar (C.G.) Civil & Revenue Distt. Bastar

---- Appellant**Versus**

1. Bacchuram, S/o Aandar, aged about 25 yrs., R/o Village Lohandiguda, P.S. Lohandiguda, Distt. Bastar (C.G.) {Driver of the vehicle}
2. Sampat Kumar Lohati, S/o R.K. Lohati, aged about 64 yrs, R/o Vill. Maddedh, Distt. Dante Wada (C.G.) (Owner of the vehicle)
3. Branch Manager, The New India Insurance Company Limited, Jagdalpur, Distt. Bastar (C.G.)

---- Respondents

For Appellant/Claimant	:	Shri Vikash Shrivastava, Advocate
For Respondent No.1/Driver	:	None present
For Respondent No.2/Owner	:	None present
For Respondent No.3/Insurer	:	Shri N.K. Malviya, Advocate

Hon'ble Shri P. R. Ramachandra Menon, Chief Justice**Hon'ble Shri Parth Prateem Sahu, Judge****Judgment on Board****Per, P. R. Ramachandra Menon, Chief Justice****25.08.2020**

1. The compensation awarded by the Tribunal in respect of the injuries sustained by the Appellant in a road traffic accident is sought to be enhanced in this appeal.
2. The Appellant was proceeding on a Motorcycle bearing No.CG-17-KA/2967 along the road on 12.02.2010. By about 9.30 am, when he reached the place of occurrence, the Truck bearing No.CG-18-H/0175, driven by the 1st Respondent, owned by the 2nd Respondent and insured by the 3rd Respondent, knocked him down from behind, causing serious injuries; which was sought to be compensated by filing a Claim Petition before the Tribunal.

3. It was contended by the Appellant / Claimant that the injuries sustained by him were quite serious, involving fracture to the pelvic bone, with such other injuries to the limbs. It was also contended that he was working as a Manager in a Co-operative Society and Kishan Rice Mill, earning a seizable income and because of the serious injuries, much loss and hardships have been caused to him; which was sought to be compensated.
4. Based on the evidence adduced, the Tribunal held that the accident was because of the negligence on the part of the 1st Respondent / Driver of the offending Truck. With reference to the pleadings and evidence brought on record, the Tribunal held that the Claimant was entitled to have a sum of Rs.10,000/- towards the Pain and Suffering in respect of the injuries sustained, a sum of Rs.13,176/- towards Medical Expenses and further a sum of Rs. 2,000/- towards the Diet and Travelling Expenses; thus, fixing the total compensation as Rs.25,176/-. This was directed to be satisfied with interest @ 8% per annum from the date of filing of the claim petition till satisfaction and the liability was mulcted upon the 3rd Respondent – Insurer, by virtue of valid policy in existence. This is stated as abysmally low and hence sought to be enhanced in this appeal.
5. The learned counsel for the Appellant submits that material particulars brought on record have not been properly analysed and appreciated by the Tribunal.

6. We have gone through the records and we have heard the parties in detail.
7. The evidence tendered does not disclose that the Appellant has sustained any permanent disability to be compensated in terms of money, but for the compensation payable under other appropriate heads. Considering the gravity of the injuries sustained, which involves pelvic bone fracture and the time taken to recuperate, we are of the view that the Appellant is entitled to get Rs.25,000/- towards the Pain and Suffering. Since the Tribunal has awarded only a sum of Rs.10,000/-, we award the balance compensation of **Rs.15,000/-** under this head. The Medical Expense awarded by the Tribunal is based on the bills produced; which is found as acceptable. Though the learned counsel for the Appellant made a submission that some of the bills have not been considered, no specific answer is given with reference to any particular bill and reason to support the submission to get the amount under that bill. The Appellant has not demonstrated as to where the Tribunal has gone wrong in considering the Claim towards the Medical Expenses. As such, it does not require any modification. However, the Tribunal has awarded only a sum of Rs.2,000/- towards Diet and Travelling Expenses, which, in view of the nature of injuries sustained and the various trips undertaken by the Appellant in connection with the treatment, we find it appropriate to enhance the same by providing **Rs.3000/-** more, thus fixing the compensation under that head as to be Rs.5,000/-. It is also relevant to note that, though

the Appellant was employed, by virtue of the fracture to the pelvic bone, he had to be on bed for a reasonable time to get the wound healed / fracture united; availing the service of an attendant for two months. We notionally fix the compensation in this regard as **Rs.6,000/-** and it is awarded accordingly.

8. Thus, the Appellant is entitled to get an additional compensation of **Rs.24,000/- (Twenty four thousand only)**. The said amount requires to be satisfied with interest @ 7% per annum from the date of filing of the Claim Petition till satisfaction. Since the existence of a valid policy is admitted and the liability is already fixed upon the 3rd Respondent-Insurance Company, we direct the 3rd Respondent to deposit the above additional compensation as well (with intimation to the Appellant/Claimant) before the Tribunal, as expeditiously as possible, at any rate, within a period of 'one month' from the date of receipt of a copy of this judgment.

The appeal stands allowed to the said extent.

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

Sd/-
(Parth Prateem Sahu)
Judge