

NAFR

HIGH COURT OF CHHATTISGARH BILASPUR**M. A. (C) No. 1349 of 2014**

Smt. Lata Gupta W/o Vinod Kumar Gupta, aged about 35 years, R/o Rampur, Tahsil & District Korba (C.G.).

---- Appellant**Versus**

1. Govind Yadav S/o Amru Ram Yadav, aged about 28 years, R/o Mudapar, Tahsil & District Korba (C.G.) (Driver of the offending vehicle)
2. Devvert Banerji S/o Dilip Banerji, aged about 28 years, R/o bye-pass Road, Mudapar, Tahsil & District Korba (C.G.) (owner of the offending vehicle)
3. The IFFCO Tokiyo General Insurance Company Limited, Through Divisional Manager, IFFCO Tokiyo General Insurance Company Limited, Office-345-347, 3rd Floor, Lalganga shopping mall, Raipur (C.G.) (Insurer of the offending vehicle).

---- Respondents

For Appellant	: Mr. Pawan Kashyap, Advocate
For Respondents No.1 & 2	: Mr. Samir Singh, Advocate
For Respondents No. 3	: Mr. Tessy Abraham, 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****19.11.2020**

1. Appellant/claimant has filed this appeal under Section 173 of the Motor Vehicles Act, 1988 (hereinafter referred to as 'M.V. Act') challenging the impugned award dated 24.06.2014

passed by the Additional Motor Accident Claims Tribunal (F.T.C.), Korba, Chhattisgarh (hereinafter referred to as 'Claims Tribunal') in Claim Case No.28 of 2013 whereby learned Claims Tribunal allowed the application filed under Section 166 of the M.V. Act in part and awarded Rs.2,000/- as compensation in an injury case.

2. Facts relevant for disposal of this appeal, are that, on 14.11.2011, at about 6.00 PM, when appellant/claimant was moving on the road in front of A.D.M. Building, non-applicant No.1 driving his Motorcycle bearing No.CG12/AB/6303 (hereinafter referred to as 'offending vehicle') rashly and negligently, dashed the claimant from her back. In the aforementioned accident, appellant suffered grievous injuries over her person. The accident was reported to concerned Police Station, based upon which, crime was registered against non-applicant No.1.
3. Appellant/claimant filed an application under Section 166 of the M.V. Act seeking compensation of Rs.6,00,000/- on different heads pleading therein that on the date of accident, she was working as Labourer with Larsen & Toubro Limited and earning Rs.6,000/- per month.
4. Non-applicants No. 1 and 2/driver and owner of offending vehicle submitted reply to claim application denying the adverse pleadings made against them as also the fact of accident. It was further pleaded that claimant met with an

accident on account of her own negligence; on the date of accident, offending vehicle was insured with non-applicant No.3/Insurance Company, hence, the liability, if any, to satisfy the amount of compensation would be upon the Insurance Company.

5. Non-applicant No.3/Insurance Company submitted reply to claim application, while denying the adverse pleadings made therein, pleaded that claim case was filed on false and fabricated grounds, claimant met with an accident on account of her own negligence. It was further pleaded that claimant was not having any income and non-applicant No.1/driver of offending vehicle was not possessed with valid and effective driving licence, hence, there was breach of policy conditions.
6. Learned Claims Tribunal upon appreciation of pleadings and evidence placed on record by the respective parties held that claimant suffered motor accidental injuries on account of rash and negligent driving of offending vehicle by non-applicant No.1, awarded Rs.2,000/- as total compensation and fastened liability to satisfy the amount of compensation upon the Insurance Company.
7. Mr. Pawan Kashyap, learned counsel for the appellant submits that learned Claims Tribunal has awarded very meager sum of Rs.2,000/- only overlooking the nature of injuries suffered by the appellant, expenditure incurred by

her for her treatment. He further submits that learned Claims Tribunal has not considered that appellant could not perform her work on account of accidental injuries suffered by her and erred in not awarding future medical expenditure, hence, amount of compensation should be suitably enhanced.

8. Per contra, Mr. Samir Singh, learned counsel for respondents No.1 and 2 supported the impugned award and submits that learned Claims Tribunal has awarded just amount of compensation in facts and circumstances of the case, which does not call for any interference.
9. Mr. Tessy Abraham, learned counsel for respondent No.3 submits that learned Claims Tribunal based on the material and evidence placed on record by the appellant has awarded amount of compensation towards medical expenditure, transportation expenses and pain and suffering looking to the nature of injuries suffered by her. He further submits that appellant suffered only simple injuries, she took treatment as outpatient, she was sent to home on same day after examining by the doctor.
10. We have heard learned counsel for the respective parties and also perused the record.
11. Motor accidental injuries suffered by the appellant is not in dispute. The only question raised for consideration of this Court is that learned Claims Tribunal has not awarded just

amount of compensation considering the nature of injuries suffered by her.

12. To appreciate the submission made by learned counsel for the appellant, we have perused the MLC Report (Ex.P/2), which shows some abrasion injuries, swelling and tenderness. In MLC Report, it was advised for radiological examination, injuries No.1 and 2 have been shown to be simple in nature. Appellant has not placed on record X-ray and report of Radiologist, as such, it is apparent that appellant did not suffer fracture injuries over her person. She has not taken any treatment as inpatient as no document has been placed on record, but for Ex.P/9, which is an outpatient prescription of Indira Gandhi District Hospital, District Korba. The other medical prescriptions which are placed on record of Sahu Hospital, Korba (Ex.P/11) and Sai Kripa Clinic, Korba (Ex.P/12). In Ex.P/11, it is only mentioned as multiple abrasions.
13. Learned Claims Tribunal has considered in detail the nature of injuries suffered by appellant based on the evidence and documents placed on record and held that claimant has not placed on record any material to show that she took treatment as inpatient in any Hospital nor placed on record any document or material that she was required any future treatment. Learned Claims Tribunal has awarded Rs.1,000/- towards pain and suffering, Rs.400/- towards consultancy

fee of Sahu Hospital, Korba and Sai Kripa Clinic, Korba, Rs.400/- towards transportation expenses and Rs.90/- towards medical expenses i.e. Rs.1,890/- in total, which has been rounded off to Rs.2,000/-.

14. Learned Claims Tribunal though has awarded an amount of Rs.1,000/- towards pain and suffering, which in fact appears to be on lower side in view of nature of injuries mentioned in MLC Report (Ex.P/2). Appellant suffered injuries on her back and head. Though the documents do not show the grievousness of injuries, but at the same time, it cannot be ignored that due to internal injuries suffered by any person in motor accident, he/she has to take rest for sometime and could not able to perform his/her work or duties. The pain may be there on the part of the body for couple of days.
15. Taking into consideration overall facts and circumstances of the case, nature of injuries mentioned in the MLC Report (Ex.P/2), pleadings and statement made by the appellant that she was working as Labourer with Larsen & Toubro Limited, we find it appropriate to award lumpsum amount of Rs.5,000/- in addition to the amount of Rs.2,000/- already awarded by learned Claims Tribunal. The additional amount of compensation shall carry interest at the rate of 7% per annum from the date of filing of claim application till its realization. Other conditions imposed by learned Claims Tribunal shall remain intact.

16. In the result, appeal is allowed in part and impugned award passed by the Claims Tribunal is modified to the extent as indicated herein-above.

Sd/-

(P. R. Ramachandra Menon)
Chief Justice

Sd/-

(Parth Prateem Sahu)
Judge

Yogesh