

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 702 of 2014****(Arising out of Award dated 01.04.2014 passed by the Chief Motor Accident
Claim Tribunal, Dhamtari in Claim Case No.85/2013)**

- Gopi Sahu S/o Ramprasad Sahu aged about 14 years (Minor), Appellant being minor on behalf of through his legal guardian/next friend Mother Smt. Tuleshwari Sahu, W/o Ram Prasad Sahu, aged- 42 years, R/o Aamdi, Post Office & P.S. Arjuni, Tahsil & District Dhamtari (C.G.)

---- Appellant**Versus**

1. Umesh Kumar Sahu, S/o Kaushal Sahu, aged about 22 years, R/o Village- Aamdi, P.O. And P.S. Arjuni, Tahsil & District Dhamtari (C.G.)
2. The C.M.O., Nagar Panchayat, Aamdi, S/o Prahalad Chand Agrawal Village - Aamdi, Post Office & P.S. Arjuni, Tahsil & Distt. Dhamtari (C.G.)
3. The United India Insurance Company Limited, through Divisional Manager, Divisional Office, Kutcheri Chowk, P.O. Raipur, P.S. Gol Bazar, Tahsil & District Raipur (C.G.)

---- Respondents

For Appellant/Claimant	:	Shri Shivendu Pandya, Advocate
For Respondent No.1	:	None present
For Respondent No.2	:	Shri U.N.S. Deo, Advocate
For Respondent No.3	:	Shri Dashrath Gupta, 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****04.08.2020**

1. Inadequacy of the compensation awarded by the Chief Motor Accident Claim Tribunal, Dhamtari, District – Dhamtari (hereinafter referred as 'the Tribunal') in Claim Case No.85/2013, in respect of the serious injuries and the disability suffered by the Appellant in a 'Road Traffic Accident' is projected as the grievance in this appeal.
2. On 25.06.2009, the Appellant, who was a minor student aged 14 years, was standing near the place of occurrence, when the Tractor-Trolley

bearing registration No. CG/05/G/1568, driven by the 1st Respondent, owned by the 2nd Respondent and insured by the 3rd Respondent, knocked him down causing serious injuries to different parts of his body, including fracture to the right hand.

3. It is the case of the Appellant that he had remained for more than one month in the Hospital. Even after discharge, he was finding difficulty to pursue his studies because of the serious consequences resulted. It is stated that the injuries caused 30% permanent disability as per Exhibit P-17 Disability Certificate and in the said circumstances, it was sought to be compensated by filing the claim petition before the Tribunal.
4. The claim was resisted from the part of the Respondents mainly on the quantum and negligence. Existence of a valid insurance policy in respect of the vehicle involved in the accident is admitted. After completion of the trial, the Tribunal arrived at a finding that the accident was solely because of the negligence on the part of the Driver of the offending vehicle.
5. It is pointed out that the Appellant had examined the Doctor to prove the disability certified as 30% in the relevant document i.e. Exhibit-P/17. The disability as above has been accepted by the Tribunal. But, observing that the injured boy was only a minor child having no permanent source of income, only a lump-sum compensation of Rs.25,000/- was awarded in respect of the injuries and the consequences suffered by him, apart from awarding a sum of

Rs.3,000/- towards pain and suffering and a sum of Rs.565/- towards the medical expenses; thus, granting a total sum of Rs.28,565/-, which was directed to be satisfied with interest @ 6% per annum from the date of filing of the claim petition till its realization.

6. The learned counsel for the Appellant submits that the quantum of compensation awarded by the Tribunal is abysmally on the lower side and is without any regard to the serious ordeal the Appellant minor student has to face in his life and career. According to the learned counsel for the Respondents, particularly, the learned counsel for the 3rd Respondent – Insurance Company, the Award has been passed by the Tribunal after taking note of all the relevant facts and figures and does not warrant any interference.
7. The question as to the quantum of compensation payable in respect of disability caused to minor children in 'Road Traffic Accident' had come up for consideration before the Apex Court. After considering the relevant aspects, it has been held by the Apex Court in ***Mallikarjun v. Divisional Manager, National Insurance Company Limited and Another*** reported in **(2014) 14 SCC 396** that in case, the accident has led to permanent disability, the compensation shall be paid depending upon the disability in the following manner :

• Upto 10%	-	Rs. 1,00,000/-
• above 10% and upto 30%	-	Rs. 3,00,000/-
• above 30% and upto 60%	-	Rs. 4,00,000/-
• above 60% and upto 90%	-	Rs. 5,00,000/-
• above 90%	-	Rs. 6,00,000/-

8. Applying the above law to the given set of facts and circumstances, it is evident that the serious injuries had led to permanent disability certified as per Exhibit-P/17 Disability Certificate that the disability was to an extent of 30%. The correctness of the said certificate has not been controverted from the part of the Respondents. It is relevant to note that the said certificate has been virtually accepted by the Tribunal in evidence. However, instead of awarding compensation adopting the multiplier method, with reference to the said extent of disability and other reckonable factors as to the age and notional monthly income, only a meagre sum of Rs.25,000/- has been awarded, besides such paltry amounts mentioned under such other heads, granting a total compensation of Rs.28,565/-. Even if it is to be presumed that extent of disability as per Exhibit-P/17 (30%) is only in respect of the right hand and not the whole body disability, we are definitely sure, as discernible from the materials brought on record, that the whole body disability can only be above 10% and below 30%. If the permanent disability is above 10% and upto to 30%, the minimum compensation payable, as held by the Apex Court in **Mallikarjun's case** (supra), is Rs.3,00,000/-. This is in addition to the medical expenses payable, which in the instant case has been held as only Rs.565/-.
9. In the above circumstance, we do not require any second thought to hold that the Appellant is entitled to have a compensation of Rs.3,00,000/- as held by the Apex Court in **Mallikarjun's case** (supra) and the medical expenses. After giving credit to the sum of

Rs.28,565/- awarded by the Tribunal, the balance amount payable is liable to be paid as additional compensation awarded by this Court in respect of the extent of injuries and the consequences resulted as above. The said amount is required to be satisfied with an interest at the rate of 7% per annum from the date of filing of the claim petition, till the date of satisfaction.

10. In view of the fact that the vehicle is covered by a valid policy, the amount due shall be worked out and it shall be deposited before the Tribunal, with intimation to the Appellant/Claimant, by the 3rd Respondent – Insurance Company as expeditiously as possible, at any rate, within a period of 'six weeks' 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