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HIGH COURT OF CHHATTISGARH, BILASPUR
MAC No.399 of 2015

Manohar Ram S/o Sarju Ram, Aged About 55 Years, Occupation -Service, R/o: Village- Parsapara (Amapara), Police Station -Jainagar, Tahsil and District- Surajpur, (CG).

---- Appellant/Claimant

Versus

1. The Oriental Insurance Company Limited, Through -Branch Manager, The Oriental Insurance Company Limited, Near Ambedkar Chowk, Manendragarh Road, Ambikapur, District- Surguja, (CG).
2. Rameshwar Prasad Sahu S/o Siddhnath Sahu, Aged About 32 Years, R/o: village- Puta, Police Station -Patna, District -Korea, CG.

---- Non-applicant Nos.1 & 2/Respondents.

For Appellant	:	Ms. Nandkumari Kashyap, Advocate.
For Respondent No.1	:	Mr. T. K. Tiwari, Advocate.
For Respondent No.2	:	Mr. Samir Singh, Advocate.

Hon'ble Shri P. R. Ramachandra Menon, CJ
Hon'ble Shri Parth Prateem Sahu, J
Order on Board

Per Parth Prateem Sahu, J
25.01.2021

1. Appellant/claimant has filed this appeal under Section 173 of the Motor Vehicles Act, 1988 (for short 'Act of 1988') seeking enhancement of compensation awarded by learned Motor Accident Claims Tribunal, Surajpur, Distt -Surajpur, (CG) (for short, 'Tribunal') vide award dated 11.03.2015 passed in Claim Case No.82/2014, whereby Tribunal partly allowed application filed under Section 166 of the Act of 1988 and awarded total compensation of Rs.2,54,754/- in injury case.

2. Facts relevant for disposal of this appeal are that on 27.04.2014, Manohar Ram (claimant) alongwith his friend Ramdev was going for duty at South Eastern Coalfields Limited, Kumda on his TVS Moped. When they reached near Nayanpur turn, Ambikapur, one Bolero Vehicle bearing registration No.CG17/D/0529, (for short, 'offending vehicle'), driven by non-applicant No.2

rashly and negligently, dashed their Moped and caused accident. In the said accident, Manohar Ram suffered grievous injuries on his chest, head and right leg. He was brought to Central Hospital, Bishrampur, looking to seriousness of injuries, he was referred to Apollo Hospital, Bilaspur where he remained admitted from 28.04.2014 to 24.05.2014 for his treatment.

3. Appellant filed an application under Section 166 of the Act of 1988 seeking compensation of Rs.6,70,000/- pleading therein that on the date of accident, he was working in SECL, Kumda and getting salary of Rs.40,000/-. Due to injuries suffered by him in motor-accident, he could not attend his office for about 8 months, thereby suffered loss of salary. On account of motor-accidental injuries, he underwent surgery thrice, became permanently disabled, his memory power also got reduced affecting his working capacity.

4. Non-applicant No.1/Insurance Company submitted its reply to claim application denying pleadings made therein. It was further pleaded that claimant himself drove his Moped rashly and negligently and met with an accident. It was further pleaded that claimant is an employee of SECL and entitled for re-reimbursement of all the medical expenditure incurred towards his treatment. Claimant has not filed permanent disability certificate issued by Medical Board and compensation claimed is highly exaggerated. On the date of accident, neither non-applicant No.2 nor claimant was possessed with valid and effective driving license. As there was breach of policy condition, non-applicant No.1-Insurance Company is not liable to indemnify the insured.

5. Non-applicant No.2, owner-cum-driver of offending vehicle, submitted reply to claim application, while denying pleadings made therein further pleaded that on the date of accident, non-applicant No.2 was possessed with valid and effective driving license, vehicle was insured with non-applicant No.1-Insurance

Company, hence, liability, if any, to satisfy the amount of compensation would be of Insurance Company.

6. On appreciation of pleadings and evidence placed on record by respective parties, Tribunal held that claimant suffered motor-accidental injuries on account of rash and negligent driving of offending vehicle by non-applicant No.2. Breach of policy condition was not found to be proved. Tribunal allowed application in part, awarded total compensation of Rs.2,54,754/- along with interest at the rate of 8% p.a., fastened liability, jointly & severally, upon non-applicants to satisfy the amount of compensation.

7. Learned counsel for the appellant/claimant submits that Tribunal erred in awarding very meager amount of compensation in the given facts and circumstances of the case. No amount of compensation has been awarded towards permanent disability, injuries suffered by claimant and amount awarded under the head 'loss of amenities and future medical expenses' is also on lower side, hence, amount of compensation be suitably enhanced.

8. Learned counsel for respondent No.1/Insurance Company while opposing the submissions made by learned counsel for appellant, submits that Tribunal has awarded compensation under almost on all heads for which claimant was entitled for. Though in claim application claimant has pleaded that he suffered permanent disability but failed to place on record any admissible piece of evidence to prove any disability. Amount of compensation awarded by Tribunal cannot be said to be on lower side, rather it is just and proper and does not call for any interference.

9.Learned counsel for respondent No.2/owner-cum-driver of offending vehicle while supporting the impugned award, submits that liability to satisfy amount of compensation is upon non-applicant No.1/Insurance Company; compensation awarded is just.

10. We have heard learned counsel for the respective parties and perused the record of claim case.

11. So far as submission with regard to non-awarding of any amount towards permanent disability and injuries suffered by claimant is concerned, claimant has placed on record medical documents as Ex.A-7 to A-48. In document Ex.A-7, which is admission form of claimant in Central Hospital, Bishrampur, (SECL), it is mentioned that claimant was admitted on 27.04.2014 at about 09:20 AM; upon diagnosis, it is found that he suffered head injury and fracture of temporal bone. On the same day at about 14:30 PM, he was referred to Apollo Hospital, Bilaspur. Ex.A-10 is the discharge summary of Apollo Hospital, Bilaspur wherein date of admission of claimant has been mentioned as '28.04.2014' and date of discharge as '24.05.2014'. Upon diagnosis following injuries have been noticed :-

> "**Diagnosis** : (1) Head injury with infected scalp wound on right temporal region with hematoma.
>
> (2). Fracture upper shaft left fibula.
>
> (3) Fracture right inferior pubic rami and laceration left knee.
>
> (4). Multiple left sided rib fractures with left hemo-pneumothorax & underlying Collapse-Consolidation.
>
> (5). Diabetes mellitus."

12. From perusal of above documents, it is crystal clear that injuries suffered by claimant were of very serious in nature. True it is that claimant has not placed on record any disability certificate issued by the Competent Authority ie Medical Board. In absence of certificate issued by the Medical Board showing that claimant suffered permanent disability, submission made by learned counsel for appellant/claimant that claimant has suffered permanent disability is

not sustainable and it is hereby repelled. But the fact remains that claimant suffered very serious injuries on his head, fracture of upper shaft left fibula, fracture of right inferior pubic rami and laceration left knee & Multiple left sided rib fractures etc. In such situation, claimant is definitely entitled for compensation towards grievous injuries suffered by him. This aspect was not considered by Tribunal and not awarded any amount towards grievous injuries. Hence, we find it appropriate to award Rs.50,000/- towards the grievous injuries suffered by claimant.

13. Coming to next submission with regard to amount of compensation towards 'loss of amenities & joy in life and future medical expenses'. Perusal of medical documents would show that apart from head injuries, claimant also suffered multiple fracture injuries on different parts of his body. At the time of accident, claimant was 50 years old. Bone injuries suffered by any person at the age of 50 years or more, there may be chances to have difficulties and effect on movement and working of that particular part of body. The aforementioned factor may deprive claimant in participating and performing several activities which he could have enjoyed earlier. In view of aforementioned facts, amount of Rs.25,000/- awarded by Tribunal towards 'loss of amenities and future medical expenses' in the opinion of this Court is on lower side and the same deserves to be enhanced. Accordingly, we enhance the amount awarded towards 'loss of amenities & joy in life' from Rs.25,000/- to Rs.50,000/-.

14. Now, claimant will be entitled for Rs.50,000/- towards loss of amenities & joy in life, and Rs.50,000/- towards grievous injuries suffered by him. Apart from above, he is also entitled for Rs.1,44,754/- towards loss of income due to leave without pay; Rs.50,000/- towards pain and sufferings & Rs.35,000/-

towards attendant, expenses for extra nourishment and transportation as already awarded by Tribunal.

15. In view of above, appellant/claimants is entitled for a total compensation of **Rs.3,29,754/-** (Rs.50,000/- + 50,000/- + Rs.1,44,754/- + Rs.50,000/- + 35,000) instead **of Rs.2,54,754/-** as awarded by the Tribunal. This amount of compensation will carry interest @ 8% p.a. from the date of filing of application till its realization. Rest of the conditions of impugned award shall remain intact.

16. In the result, appeal is allowed in part and impugned award stands modified to the extent as indicated above.

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

Sd/-
(Parth Prateem Sahu)
Judge

Jamal/-