

HIGH COURT OF CHHATTISGARH, BILASPUR
MAC No. 166 of 2015

Satyadev Pathak S/o Late Bhagwant Dutt Pathak, Aged About 58 Years, Caste-Brahman, R/o- Narayanpur, Police Station -Narayanpur, Tahsil -Kunkuri, District- Jashpur, CG.

---- **Appellant/Claimant**

Versus

1. Mohammad Talib S/o Lal Mohammad, Caste -Muslim, Aged About 40 Years, R/o- Village Ambikapur Kharsia Naka, District Surguja, Chhattisgarh. (**Driver**).
2. Mohammad Shamim S/o Abdul Rasid, New Shamim Transport Kharsia Naka, Ambikapur, District : Surguja, Chhattisgarh. (**Owner**).
3. The New India Insurance Company Limited, Through The Branch Manager, Office, Korba, Distt- Korba C.G.

--- **Non-applicant Nos.1 to 3/Respondents**

For Appellant	: Mr. S.K. Saxena, Advocate.
For Respondent No.1 & 2	: Mr. U.K.S. Chandel, Advocate.
For Respondent No.3	: Mr. Qamrul Aziz, Advocate.

Hon'ble Shri P. R. Ramachandra Menon, CJ

Hon'ble Shri Parth Prateem Sahu, J

Order on Board

Per Parth Prateem Sahu, J

13/01/2021

1. Challenge in this appeal is to the award dated 18/09/2014 passed by learned Additional Motor Accident Claims Tribunal, Kunkuri, Distt -Jashpur, (CG) (for short, 'Tribunal') in Claim Case No.8/2008, whereby Tribunal allowed application filed under Section 166 of the Act of 1988 in part and awarded compensation of Rs.4,067/- in an injury case.

2. Facts relevant for disposal of this appeal are that on 29.05.2011, claimant (injured) was going towards Kunkuri on bus bearing registration No.CG15-A-3436, (for short, 'offending bus'). On the way, non-applicant No.1- driver of offending bus drove the bus rashly and negligently and caused accident. In the said accident, claimant suffered grievous injuries on his chest, back, face and others parts of body. He was immediately taken to Government Hospital,

Kunkuri for treatment. Accident was reported to concerned police station based upon which crime was registered against non-applicant No.1.

3. After recovery from the injuries, appellant/claimant filed an application under Section 166 of the Act of 1988 seeking compensation of Rs.1,80,000/- pleading therein that on account of motor-accidental injuries, he suffered permanent disability. He took treatment as in-patient in Government Hospital, Kunkuri thereafter from Hospital at Jashpur and lastly at R. P. Orthopedic & Trauma Centre, Ranchi.

4. Non -applicant No.2, owner of offending bus, submitted reply to application, while denying pleadings made therein pleaded that on the date of accident, non-applicant No.1 was possessed with valid and effective driving license. Offending bus was insured with non-applicant No.3-Insurance Company, hence, liability, if any, to pay the amount of compensation would be of Insurance Company.

5. Non-applicant No.3/Insurance Company submitted reply to application, while denying the pleadings made therein pleaded that copy of readable Insurance Policy has not been supplied. On the date of accident, non-applicant No.1 was not possessed with valid and effective driving license.

6. On appreciation of pleadings and evidence placed on record by respective parties, Tribunal held that claimant suffered motor-accidental injuries due to rash and negligent driving of offending bus by non-applicant No.1. Breach of policy condition was not found to be proved. Tribunal allowed claim application in part, awarded total compensation of Rs.4,067/- along-with interest @ 6% p.a. and fastened liability upon non-applicants to satisfy the amount of compensation, jointly and severally.

7. Mr. S. K. Saxena, learned counsel for appellant/claimant submits that Tribunal has awarded meager amount of compensation towards pain and sufferings and medical expenses ie Rs.2,000/- and Rs.1,567/- respectively, overlooking the nature of injuries, place and period of treatment taken by claimant. Claimant took treatment by Dr. S. N. Yadav, Orthopaedic Arthroscopist & Joint Replacement Surgeon at R. P. Orthopedic & Trauma Centre, Ranchi but Tribunal has not considered the medical prescription of Dr. S.N. Yadav. No amount of compensation has been awarded towards attendant, loss of income during the period of treatment, consultation fee and transportation charges from Narainpur, Distt. Jashpur to Ranchi for the purpose of treatment. Hence, amount of compensation be suitably enhanced.

8. Mr. U. K. S. Chandel & Mr. Qamrul Aziz, learned counsel for the respective respondents submits that claimant neither suffered any fracture injury nor any permanent disability in the alleged accident. Claimant has also not filed any medical document to show that he took treatment as in-patient from the hospitals as pleaded in his pleadings. Tribunal has awarded all the medical bills as placed on record by claimant and also awarded Rs.2,000/- towards pain and sufferings. The amount of compensation awarded to claimant is just and proper and it does not call for any interference.

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

10. So far as submission with regard to nature of injuries and treatment taken by claimant is concerned, claimant has placed on record MLC report (Ex.A/5), medical prescriptions as also bills showing purchase of medicines as Ex.A/6 but in none of these documents it is mentioned that claimant has taken treatment as in-patient. In MLC report, which was given by Medical Officer, Community Health Centre, it is mentioned that 'no bone injury'. Claimant has further placed

on record two medical prescriptions dated 01.12.2006 & 04.01.2007 of Dr. S. N. Yadav, Orthopaedic Arthroscopist & Joint Replacement Surgeon at R. P. Orthopedic & Trauma Centre, Ranchi as A/6 & A/7 alongwith cash receipts towards purchase of medicines to which, Tribunal has considered and awarded. Claimant also placed on record medical prescription of Government Hospital, Jashpur as Ex.A/11 wherein it has been doubted with regard to the fracture of 10th & 11th ribs.

11. From the medical documents, it is not clear whether claimant suffered any fracture injury or not, but it is apparent that claimant suffered motor-accidental injuries and took treatment at Community Health Centre, Kunkuri; District Hospital, Jashpur and R. P. Orthopedic & Trauma Centre at Ranchi.

12. Tribunal has awarded amount of compensation towards bills of purchase of medicines, other articles and Rs.2,000/- towards pain and sufferings, but not awarded any amount towards transportation, attendant, loss of income during the period of treatment and consulting fee of doctor at Ranchi.

13. Learned counsel for the appellant/claimant could not be able to point out as to which medical bill has not been considered by Tribunal. Hence, we are of the considered view that Tribunal has awarded entire medical bills and bills towards purchase of medicines.

14. Taking into consideration the entire facts and circumstances of the case, we find it appropriate to award a lump-sum amount of Rs.20,000/- towards attendant, transportation, consultation fee and loss of income during period of treatment. It is ordered accordingly.

15. Now, claimant/appellant is entitled for additional sum of Rs.20,000/-, apart from the amount of compensation of Rs.4,067/- already awarded by the Tribunal. This amount of compensation shall carry interest @ 6% p.a. from the

date of filing of claim 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 herein-above.

Sd/-

(P. R. Ramamchandra Menon)
Chief Justice

Sd/-

(Parth Prateem Sahu)
Judge

Jamal/-