

HIGH COURT OF CHHATTISGARH, BILASPUR

Reserved on 18.10.2021
Pronounced on 01.11.2021
M.A(C) No.124 of 2017

Lal Singh S/o Late Shivprasad Singh, Aged About 51 Years R/o Teachers Colony, Domanhill, Police Station Chirmiri, Tahsil Khadgawa, District Korea, ChhattisgarhClaimant **--- Appellant**

Versus

1. Shivnarayan S/o Ramadhar, R/o Sadak Dafai, Haldibadi, Police Station Chirmiri, Tahsil Khadgawa, District Korea, ChhattisgarhDriver Of Motorcycle No. C.G.16-D-3534
2. Pawan Sai S/o Sainath, Aged About 40 Years R/o Haldibadi, Chirmiri, Police Station Chirmiri, Tahsil Khadgawa, District Korea, ChhattisgarhOwner Of Motorcycle No. C.G.16-D-3534, District : Koriya (Baikunthpur) **----Respondents**

For Appellant:	Shri Anil Gulati and Shri PK Tulsian, Advocates.
For Respondent No.1:	Smt Ranjana Jaiswal, Advocate.
For Respondent No.2:	None, though served.

Single Bench: Hon'ble Shri Deepak Kumar Tiwari, J
C A V Judgment

1. This Miscellaneous Appeal has been preferred by the Claimants under Section 173 of the Motor Vehicles Act, 1988 (for short 'the Act of 1988') questioning the legality and propriety of the award dated 18.10.2016 passed by the Second Additional Motor Accident Claims Tribunal (Mandendragarh District Korea (for short 'the Tribunal') in Claim Case No.47/2013 whereby, the learned Claims Tribunal, while allowing the claim in part, has awarded a lump sum amount of Rs.10,000/- with 8% interest per annum from the date of filing of the Claim Petition till its realization. The parties to this Appeal shall be referred hereinafter as per their description in the trial Court.

2. The facts of the case in nut-shell are that on 20.12.2012, the Appellant/Claimant went to the restaurant at Haldibari, Chirmiri and when he

reached near the said restaurant, Respondent No. 1, who was driving his motorcycle bearing registration No. C.G.-16-D-3534 in a rash and negligent manner, dashed the Appellant on account of which, he received multiple injuries and was immediately shifted to Regional Hospital wherefrom, on referral, he was admitted at Apollo Hospital, Bilaspur from 21.12.2012 to 28.12.2012. The Claimant/Appellant is working as a School Teacher in the laboratory of Central School, Chirmiri and due to the said incident, he could not perform his duties from 21.12.2012 to 13.01.2012 and from 15.01.13 to 24.01.2013 for which, he has claimed an amount of compensation to the tune of Rs. 1,82,930/- under different heads.

3. Respondents No.1 & 2 have contested the claim and the Tribunal, after considering the evidence led by the parties, arrived at a conclusion that the alleged accident occurred on 20.12.2012 due to rash and negligent driving by the driver of its offending vehicle and the Claimant has sustained injuries and by fastening the liability upon the Respondent jointly and severally, awarded lump sum compensation as mentioned above.

4. Being aggrieved, the Claimant has preferred this Appeal. Learned Counsel appearing for the Appellant/Claimant submits that the Claims Tribunal, while passing the award impugned, has erred in awarding a lump sum amount of Rs.10,000/- and failed to appreciate the evidence on record in order to provide just and proper compensation to the Claimant.

5. On the other hand, Counsel for Respondent No.1 supported the award and submits that the Claims Tribunal has not committed any illegality in awarding compensation as such.

6. I have heard learned Counsel for the parties and perused the record .

7. It appears from the evidence available on record that on account of the

alleged accident occurred on 20.12.2012, Claimant Lal Singh (A.W.1), working as a Lab Teacher in Central School, Chirmiri has sustained injuries on his head, back and ribs. So, he was firstly taken to Regional Hospital, Chirmiri wherefrom, he was referred to Higher Centre. Dr. Rajkumar (A.W.3) Nuero Surgeon stated that the Claimant was hospitalized in Apollo Hospital from 21.12.2012 to 28.12.2012. The Claimant has also produced medical bills marked as Ex. A1 to A-6 of said hospital for the treatment and follow up on 13.02.13 amounting to Rs. 24,199/-. The Claimant has also incurred expenses for transportation for which he also exhibited three bills i.e. A7- A-9 amounting to Rs. 11,000/- approximately.

8. The learned Tribunal has completely ignored the aforesaid documentary evidence, and awarded a lump sum amount of Rs.10,000/-, so the computation made by the Tribunal is not just and proper.

9. The Motor Vehicles Act is in the nature of social welfare legislation and its provisions make it clear that the compensation should be justly determined. In the matter of Helen C. Rebello (Mrs) and others vs. Maharashtra State Road Transport Corporation and another reported in (1999) 1 SCC 90, in paragraph-28, it has been held on the contours of 'just' compensation as under:-

“28.....The word “just”, as its nomenclature, denotes equitability, fairness and reasonableness having a large peripheral field. The largeness is, of course, not arbitrary; it is restricted by the conscience which is fair, reasonable and equitable, if it exceeds; it is termed as unfair, unreasonable, unequitable, not just.....”

10. Considering the fact that the injured Claimant was hospitalized for 8 days and also on leave from 21.12.2012 to 13.01.2013, so additional compensation in different heads is found merited and indicated as under :-

<u>S No.</u>	<u>Head</u>	<u>Amount Awarded</u>
1.	Pain & Suffering	Rs. 10,000/-
2.	Medical Expenses	Rs. 30,000/-
3.	Transportation Expenses	Rs. 11,000/-
4.	Expenses for Attendent	Rs. 5,000/-
5.	Special Diet	Rs. 5,000/-
6.	Total	Rs. 61,000/-

The enhanced amount of Rs. 51,000/- shall carry interest at the rate of 6% per annum from the date of filing of Claim Petition i.e. 29.08.2013 till its realization.

11. The Appeal is accordingly allowed to the extent indicated hereinabove. Rest of the observations as made by the Claims Tribunal shall remain intact. No order as to costs.

Sd/-
(Deepak Kumar Tiwari)
Judge