

**NAFR****HIGH COURT OF CHHATTISGARH, BILASPUR****MAC No. 560 of 2015**

- Suresh Kumar Verma S/o Mohanlal Verma Aged About 32 Years, R/o Kusumghata, Post - Neurgaon, Police Station-Bodla, District-Kabirdham C.G. At Present Resident Of R.P. Sadan, Sharda Gas, Behind Godown, Kapil Nagar, Sarkanda, District- Bilaspur, Chhattisgarh.

**---- Appellant****Versus**

1. Kanwaljeet @ Kanwarjeet Singh Aged About 32 Years, R/o Vaishali Nagar, Sector- 42, House No. 2, Near Shiv Mandir, Bhilai, District-Durg, Chhattisgarh.
2. Avatar Singh S/o Shri Dalbeer Singh Aged About 35 Years, R/o Modal Town, Bhilai, Durg, R/o Vaishali Nagar, Sector- 42, House No. 2 Near Shiv Mandir, Bhilai, District-Durg, Chhattisgarh.
3. National Insurance Company Ltd. Through Divisional Manager, Office-Raipur Naka Chowk, Vyapar Bihar Road, In Front Of Priyadarshni Nagar, Bilaspur, Chhattisgarh.

**---- Respondents**


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| For Appellant        | : | Shri Ramakant pandey, Adv. |
| For Respondent No. 3 | : | Shri Shivendu Pandya, Adv. |

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**Hon'ble Smt Justice Rajani Dubey****Order On Board****25/06/2021**

1. This appeal arises out of the award dated 28.04.2014 passed by 3<sup>rd</sup> Additional Motor Accident Claims Tribunal (for short the "Tribunal") Bilaspur, in Claim Case No. 53/2012 awarding a compensation of Rs.21,000/- with interest @ 6% per annum, in favour of the appellant/claimant for his injury and damage of property.

2. Facts of the case in brief are that on 09.05.2012 the appellant/claimant was going with his brother Vishnu Sharma from his residing village Kusumghata to Govt. Hospital, Kawardha by his motorcycle, at Minimata Chowk they were dashed by offending truck bearing registration No.CG-07-C-7565 which was being driven by respondent No.1 herein in a rash and negligent manner, as a result of which appellant/claimant and his brother sustained grievous injuries and his motorcycle was badly damaged. Thereafter, an FIR was registered against the respondent No. 1 under Section 279, 337 and 338 of Indian Penal Code and after investigation charge-sheet was filed against the truck driver (respondent No. 1). A claim petition was filed by the appellant/claimant claiming a compensation of Rs.55,021/- *inter alia* pleading that the appellant was admitted in the hospital for one week and he has spent Rs. 5,000/- in his treatment as well as he paid Rs. 40,000/- for his motorcycle repairing which has been caused by rash and negligent driving of the offending vehicle.

3. Respondents No. 1 and 2 did not appear before the tribunal and they did not file written statement.

3. Respondent no. 3/Insurance Company denied all allegation in his written statement and stated that claimant was driving his motorcycle without any valid and effective driving license. He also stated that the appellant is working as a Siksha Karmi, therefore he can claim his expenses of treatment from his department.

4. After evaluating the evidence available on record, the Tribunal has awarded the compensation of Rs.21,000/- along with

interest @ 6% per annum in favour of the appellant/claimant. Hence, this appeal for enhancement.

5. Counsel for the appellant/claimant submits that the compensation awarded by the Tribunal is on the lower side and needs to be enhanced suitably. He further submits that the learned Claims Tribunal has erred in discarding the documents regarding repairing of motorcycle of the appellant that is Ex. C-8 to Ex. C-13. He next submits that the learned Claims Tribunal has awarded meager compensation towards injury and damages caused to the appellant as well as his motorcycle, which deserves to be suitably enhanced. He next contended that the learned Claims Tribunal has erred in awarding lump-sum amount, despite the appellant has produced reliable evidence regarding repairing of his motorcycle.

6. On the other hand, it has argued on behalf of the counsel for respondent No. 3 that in the facts and circumstances of case, the compensation awarded by the Claims Tribunal is just and proper and requires no further enhancement.

7. Heard counsel for the parties and perused the documents on record.

8. Now this Court shall examine as to whether the compensation of Rs.21,000/- awarded by the Tribunal is just and proper compensation in the given facts and circumstances of the case.

10. From the pleadings of the respective parties and the overall evidence on record it is clear that the accident occurred with the offending vehicle which was insured with respondent No.3 and was

being driven by respondent No.1. Evidence further goes to show that offending vehicle was being driven in rash and negligent manner. The appellant/claimant has produced a certified copy of the final report of the case (Ex.A-1), copy of FIR (Ex.A-2), property seizure memo (Ex.A-3), medical examination certificate (Ex.A-5), X-ray report (Ex.A-6), OPD report (Ex.A-7), *Panchnama* (Ex.A-8) and vehicle *Mulahza* (Ex.A-9). The Ex.A-8 and Ex.A-9 shows that motorcycle was badly damaged and the approximately repairing cost was Rs. 40,000/-. Appellant also filed Ex.A-10 to Ex. A-13 receipts of motorcycle repairing cost which shows that appellant paid a total sum of Rs. 40,021/- for his motorcycle repairing. Respondent No. 1 neither filed any written statement nor appeared before learned Tribunal, therefore, the oral and documentary evidence are unrebutted. Learned Tribunal awarded Rs. 1,000/- for treatment and Rs. 20,000/- for motorcycle repairing which in the facts and circumstances of the present case is inadequate. The claimant/appellant is entitled for compensation in the following manner:-

| Head                        | Compensation awarded |
|-----------------------------|----------------------|
| For Repairing of Motorcycle | Rs.40,021/-          |
| For Medicines               | Rs.5,000/-           |
| For Mental sufferings       | Rs.10,000/-          |

12. Thus, the total compensation including the amount awarded on conventional heads comes to Rs.55,021/- i.e. (40,021/- + 5,000/- + 10,000/-) for which the claimant is entitled to receive as

compensation, is just and proper. Since the Tribunal has already awarded Rs.21,000/-, after deducting the same the claimant/appellant is entitled for enhanced amount of Rs.34,021/-. This additional amount of compensation shall carry interest @ 6% p.a. from the date of filing of claim application till its realization. The amount received by the claimant, if any, shall be adjusted in the enhanced sum.

13. Appeal is thus allowed in part with the modification in the award impugned as indicated above.

Sd/-  
**(Rajani Dubey)**  
**Judge**

*H. L. Sahu*