

HIGH COURT OF CHHATTISGARH, BILASPURReserved on 10.11.2021Pronounced on 18.11.2021M.A(C) No.1016 of 2015

Smt. Usha Bai W/o Nagendra Dubey Aged About 40 Years Resident At
Present- Gandhinagar, P.S. Gandhi Nagar, Tahsil- Ambikapur, Revenue And
Civil District- Surguja, Chhattisgarh (Claimant) **--- Appellant**

Versus

1. Rajesh Kumar Gupta S/o Shri Vasudev Gupta Occupation- Driver, Resident Of
At Present Through Hariom Trading Company, Kharsiya Road, Ambikapur,
P.S. And Tahsil- Ambikapur, Revenue And Civil District- Surguja, Chhattisgarh
(Non-Applicant No.1) Permanent Address Baraidand, P.S. Myorpur, District-
Sonbhadra U.P., Uttar Pradesh
2. Hariom Trading Company Proprietor Jitendra Kumar Agrawal, Resident Of
Kharsiya Road, Ambikapur, P.S. And Tahsil- Ambikapur, Revenue And Civil
District- Surguja, Chhattisgarh (Non-Applicant No.2)
3. Oriental Insurance Company Through Branch Manager, The Oriental
Insurance Company Limited, Near Ambedkar Chowk, Manendragarh Road,
Ambikapur, District- Surguja, Chhattisgarh (Non-Applicant No.3)

----Respondents

For Appellant:	Shri Sunil Tripathi, Advocate.
For Respondent No.1 & 2:	Notice dispensed with.
For Respondent No.3:	Shri NK Malviya, Advocate.

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

1. This Appeal has been preferred by the Appellant/Claimant under Section 173 of the Motor Vehicles Act, 1988 (for short 'the Act of 1988') questioning the legality and propriety of the award dated 26.11.2014 passed by the Motor Accident Claims Tribunal, Surguja (Ambikapur) District Surguja (for short 'the Tribunal') in Claim Case No.140/2013 whereby, the Tribunal has awarded a total amount of compensation to the tune of Rs.71,132/- with 6% interest per annum from the date of filing of the claim Petition till its realization.

2. The facts of the case in brief are that on 27.01.2013 at about 9.35 am, when the claimant was going from her house situated at Shivrinar main road to her daughter's house, near the house of Secretary, the offending vehicle truck bearing its Registration No.CG 15 AC 1816 coming from the opposite side, driven by Respondent No.1-Rajesh Kumar Gupta in a rash and negligent manner, dashed her due to which, she sustained multiple injuries. In spite of being treated from various hospitals and being unable to meet the expenses incurred in the same, she could not regain her health and sustained permanent disability.

3. Being aggrieved, the claimant has preferred this Appeal. Learned counsel for the claimant/Appellant vehemently argued that the Tribunal has, after framing various issues and ever after examining the material witnesses, erred in awarding the compensation on the lower side as mentioned above.

4. On the other hand, Counsel for Respondents have supported the award and submitted that the Tribunal has not committed any illegality in awarding the compensation as such.

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

6. On 27.01.2013, claimant Usha Devi sustained grievous injuries and was medically examined as per MLC report P-3 and thereafter, she was hospitalized at District Hospital, Ambikapur from 27.01.2013 to 28.01.2013 and on 28.01.2013 to 06.02.2013, she was hospitalized at Ramkrishna Hospital, Raipur. Discharge ticket P-20 of the said Hospital mentions the diagnosis Head Injury with (Rt) Parietal Contusion with Left Frontal Bone # with Facial Injury with # Medial Condyl (Rt). In the said report, it is mentioned that the victim was advised for facial surgery, but she has taken discharge from the

said Hospital. Claimant Usha Bai, AW-1, in her statement, has stated that due to poor financial condition, she was not able to afford the cost of the treatment. In such circumstances, it appears that she has taken discharge from the said Hospital. She has further stated that she has been admitted at District Hospital, Surguja on 25.02.2013 and remained there till 27.02.2013. She has further stated that she was advised to undergo a surgery for her jaw injury at Government Dental Hospital, Raipur and the same was conducted on 11.02.2013.

7. The Tribunal has awarded Rs.19,132/- for cost of treatment supported by medical bills (P-4 to P-55) and for treatment without bills, Rs.10,000/-, which comes to total Rs.29,132/-. Considering the nature of injuries, this Court finds appropriate to enhance the said amount to Rs.40,000/-.

8. The Tribunal has awarded Rs.5,000/- for special diet and Rs.3,000/- for attendant. On these heads also, enhancement is justified. So, under both these heads, Rs.10,000/- is being awarded separately. Rs.20,000/- has been awarded for cost of transportation which needs no enhancement as no permanent disability has been concluded and the injury is temporary in nature. So, the Tribunal has rightly assessed the loss of earning for three months as Rs.9,000/- on this head. For non-pecuniary head, the Tribunal has awarded only Rs.5,000/-. Considering the nature of injuries, as the victim is a lady and had sustained facial injury for which, she had undergone a surgery, this Court finds it appropriate to award an amount of Rs.40,000/- for pain and suffering.

9. Now, after the aforesaid modification, the claimant shall be entitled for the compensation as follows:-

	Mode of Compensation	Amount (in Rs.)
i.	For pain and suffering	40,000/-
ii.	For cost of treatment	40,000/-
iii.	For expenses of attendant	10,000/-
iv.	For special diet	10,000/-
v.	For transportation	20,000/-
vi.	For loss of earning	9,000/-
	Total	1,29,000/-
	Already awarded	71,132/-
	Enhanced amount	57,868/-

Respondent No.3 Insurance Company is directed to pay the enhanced amount of compensation with interest @ 6% per annum from the date of filing of the Petition i.e. 29.08.2013 within a period of 60 days to the claimant.

10. 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

Priya