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NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 1228 of 2024

Bhanu Prasad Chourasiya S/o Late Salgu Chourasiya, Aged About 57 Years Caste Barai, R/o Hatkachora, Vivekanand Ward No.30, Jagdalpur, District Bastar (C.G.) ----**(Claimant)**

... Appellant

versus

1 - Santosh Jain S/o Veer Prakash Jain, Aged About 30 Years R/o. Near Sonal Kirana Store, Durga Mandir, Shanti Nagar Ward, Jagdalpur, District Bastar (C.G.)----**(Driver And Owner)**

2 - United India Insurance Company Limited, Through Branch Manager, Anupama Chowk, Jagdalpur, District Bastar (C.G.)------ **(Insurer)**

--- **Respondent(s)**

For Appellant : Mr. Praveen Dhurandhar, Advocate
For Respondent No. 2 : Mr. Pravin Kumar Tulsyan, Advocate

Hon'ble Shri Justice Sanjay Kumar Jaiswal
Order on Board

(29.10.2026)

1. This appeal under Section 173 of the Motor Vehicles Act, 1988 (for short the "Act of 1988") has been preferred by the appellant/claimant seeking enhancement of the amount of compensation, challenging the impugned award dated 23.02.2024, passed in Claim Case No.72/2020, whereby the learned Claims Tribunal has awarded a total sum of Rs.5,30,679/- to the appellant for the injuries sustained by him in a road accident which took place on 05.01.2020.

2. Learned counsel for the injured/appellant would submit that the learned Claims Tribunal has erred in awarding a lesser amount of compensation. The Tribunal has not granted any amount towards loss of income. In the said accident, the injured/appellant sustained fracture on his left leg. As per the disability certificate (Ex. P-115), proved by Dr. Lakhan Thakur (AW-2), the injured sustained 70% disability of his left leg and 24% disability of the whole body. However, the Tribunal has not held any functional disability and thereby not awarded any amount towards loss of income. It is submitted that the appellant/injured is an Advocate and since his profession is a legal profession, the disability of his leg would certainly cause hindrance in his profession as he has to attend various Courts. In such circumstances, not considering the functional disability by the Tribunal is erroneous and not sustainable. He further submits that no amount has been awarded under the head of future treatment. The injured was admitted in hospital for about 45 days and was treated in different hospitals, but the loss of income during the period of treatment has been

considered only for four months, whereas the same ought to have been considered at least for six months. It is also submitted that under other heads also, a meagre amount has been assessed, which deserves to be enhanced.

3. Learned counsel for the respondent No. 2 / Insurance Company would submit that the Claims Tribunal, after appreciating the oral and documentary evidence available on record, has rightly awarded the compensation amount. No loss of income has been proved by the appellant. No financial loss has been incurred by him. The impugned award is just and proper and requires no interference.

4. I have heard learned counsel for the parties, considered their rival submissions made herein-above and went through the records with utmost circumspection.

5. On perusal of the record, it is found that the Claims Tribunal, on the basis of the Income Tax Return, in paragraph 21 of the award, has assessed the annual income of the injured as Rs. 6,25,480/-. Injured Bhanu Prasad Chourasiya, in his statement recorded before the Tribunal, has stated that his left leg was fractured due to the accident, an operation was performed and a plate was inserted, he was admitted for about 45 days and was treated in different hospitals. Due to the injury, he was unable to walk for a long time, there is persistent pain in his leg and the strength of his left leg has diminished. Dr. Lakhan Thakur (AW-2), who proved the permanent disability certificate Ex. P-115, has also stated that the injured has difficulty in walking, he is unable to sit cross-legged, there is stiffness in the left leg and since he has to attend different Courts for advocacy work, the disability of his leg would certainly be a reason for loss of income to

some extent. In such circumstances, not considering the disability would not be proper. Therefore, looking to the facts and circumstances of the case, the functional disability for the whole body is assessed at 10%.

6. The annual income of the injured as assessed by the Tribunal is Rs. 6,25,480/-. His age was considered by the Tribunal as 55 years.

7. Learned counsel appearing for the Insurance Company submits that in the claim petition, the claimant himself has mentioned his age as 57 years.

8. The Claims Tribunal, on the basis of medical documents, has considered the age of the injured as 55 years. However, in medical documents, the age is mentioned on an approximate basis. Since the injured himself has stated his age as 57 years in his claim petition, his age at the time of accident is determined as 57 years.

9. In light of the judgments of the Hon'ble Supreme Court rendered in the matters of **National Insurance Company Ltd. V. Pranay Sethi[1], Sarla Verma & Ors. Vs. Delhi Transport Corporation & Ors[2] and Magma General Insurance Co. Ltd. v. Nanu Ram @ Chuhru Ram & Ors[3]**, 10% towards future prospects should be added to his annual income. His annual income was Rs.6,25,480/-. After addition of 10% Future Prospect (Rs. 62,548/-), his annual income would be Rs. 6,88,028/-.

10. From the annual income of the deceased, there will be statutory deduction towards income tax. The income tax slab for the financial year 2019-2020 was as follows:

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1 (2017) 16 SCC 680

2 (2009) 6 SCC 121

3 (2018) 18 SCC 130

Income Tax Slabs in the FY 2010-11	**Income Tax Rates**	**Taxable Income**	**Total Tax**
0 to 2,50,000/-	nil	nil	nil
2,50,001 to 5,00,000/-	5%	Rs.2.50,000/-	Rs. 12,500/-
5,00,001 to 10,00,000/-	20%	Rs.1,88,028/-	Rs. 37,605/-
			Total 50,105/-

11. In view of the same, after deduction of income tax, the annual income comes to Rs.6,37,923/- (688028-50105).

12. In view of judgment of the Hon'ble Supreme Court in the case of **Sarla Verma** (Supra) and **Pranay Sethi** (Supra) and also considering the age of the deceased as 57 years, the multiplier of 9 should be applied. After applying the said multiplier, the amount would be Rs.57,41,307/- 10% functional disability thereof i.e. Rs. 5,74,130/- in round figure.

13. Furthermore, as the injured was admitted for 45 days in hospitals, the Tribunal has awarded Rs. 2,08,494/- towards loss of income for four months during treatment, which is proper. Under the head of medical bills, Rs. 2,04,425/- has been awarded, which is enhanced to Rs. 2,20,000/-, since there are some bills which are not possible to preserve. Under the head of pain and suffering, Rs. 40,000/- has been awarded, which is enhanced to Rs. 60,000/-. Under the head of transportation, Rs. 77,760/- has been awarded, which is rounded off to Rs. 80,000/-, since there are some bills which are not possible to preserve. No amount has been awarded towards future treatment, under which Rs. 50,000/- is awarded.

14. Thus, in light of the aforesaid discussion, this Court is computing the compensation as below:-

Sr. No.	**Heads**	**Compensation awarded by the Tribunal**	**Compensation awarded by this Court**
1	Income	Rs. 6,25,480/- per annum	Rs. 6,25,480/- per annum
2.	Future prospect	NA	(+)10% (i.e. Rs. 62548) = 6,88,028/-
3.	Income (after income tax deductions)	NA	Rs.6,37,923/-
4.	Multiplier	NA	(x) 9 = 57,41,307/-
5.	Functional disability 10% thereof	NA	Rs. 5,74,130/-
6.	Loss during treatment	Rs. 2,08,494/-	Rs. 2,08,494/-
7.	Medical Bills	Rs. 2,04,425/-	Rs.2,20,000/-
8.	Pain and suffering and healthy diet, assistance	Rs. 40,000/-	Rs.60,000/-
9.	Transportation	77,760/-	Rs.80,000/-
10.	Future treatment	NA	Rs.50,000/-
	Total	Rs.**5,30,679**/-	Rs.**11,92,624**/-

15. In view of the aforesaid analysis, the amount of compensation of Rs.5,30,679/- awarded by the Claims Tribunal is enhanced to Rs.11,92,624/-. Hence, after deducting the amount of Rs.5,30,679/-, the appellant is held entitled for an additional amount of Rs.**06,61,945**/-.

The additional amount of compensation shall carry interest @ 6% per annum from filing of the claim application before the Claims Tribunal till its realization. Rest of the conditions of the impugned award shall remain intact.

16. In the result, the appeal is **partly allowed** and the impugned award is modified to the extent as indicated herein-above.

17. The Registry is directed to communicate the claimant in writing "the enhanced amount" in this appeal as against the award made by the concerned Tribunal. The said communication be made in Hindi Deonagri language and the help of paralegal workers may be availed with a co-ordination of Secretary, Legal Aid of the concerned area wherein the claimant resides.

Sd/-
(Sanjay Kumar Jaiswal)
Judge

-Shubham