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HIGH COURT OF CHHATTISGARH AT BILASPUR

DIVISION BENCH

CORAM: HON'BLE SHRI RAJEEV GUPTA, C.J. &
HON'BLE SHRI RANGNATH CHANDRAKAR, J.

Misc. Appeal No. 734 of 2006

Appellant : Baleshwar Das Vaishnav S/o
Claimant Bhagwan Das Vaishnav, aged about
40 years, Constable 419, Police
Line, Raipur (CG)

VERSUS

Respondents 1. Dan Sai Sahu, S/o Ram Bharos
Sahu, R/o Ashok Nagar, Raipur (CG)
2. The Oriental Insurance Company
through Divisional Officer, in front of
High Court, Bilaspur (CG)
3. Shobhit Ram Sahu, S/o Arun Kumar
Sahu, R/o Harmudi, PS Navagarh,
District Durg (CG)

**MISC. APPEAL UNDER SECTION 173 (2) OF THE MOTOR
VEHICLES ACT, 1988.**

Present: Shri Rahul Birtharey, counsel for the appellant.
Shri Shailendra Sharma, counsel for respondent
No.2.

ORDER

(31st March, 2011)

The following order of the Court was passed by
Rajeev Gupta, C.J.

Appellant/ claimant Baleshwar Das Vaishnav is seeking
enhancement of the compensation awarded by the Fourth

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Additional Motor Accident Claims Tribunal, Bilaspur (for short 'the Tribunal') vide award dated 30.03.2006, passed in Claim Case No.49/2005.

2) As against the compensation of Rs.13,26,657/- claimed by the appellant/ claimant by filing a claim petition under Section 166 of the Motor Vehicles Act, for the injuries sustained by him in the motor accident on 05.09.2004, the Tribunal awarded a total sum of Rs.4,36,4990/- as compensation along with interest @ 6% per annum from the date of filing of the claim petition till the date of actual payment.

3) The Tribunal on a close scrutiny of the entire evidence led before it held that claimant Baleshwar Das Vaishnav sustained multiple serious injuries including fractures in the motor accident on 05.09.2004; the accident occurred due to rash and negligent driving of the driver of the offending vehicle Minibus bearing registration No.C.G.04-ZA-0316; as the above offending vehicle Minibus, on the date of the accident was insured with the Oriental Insurance Company Limited and the Insurance Company could not establish any breach of the policy conditions, the Insurance Company was liable to pay compensation to the claimant.

4) The Tribunal considering the number and nature of the injuries proved to have been sustained by the claimant in the motor accident and the amount proved to have been spent on treatment, awarded Rs.2,70,000/- towards loss in the future



the compensation to be awarded by the Courts/Tribunals should

7) In a motor accident claim case, what is important is that,

Rs.4,36,499/- as compensation to the claimant.

submitted that the Tribunal has awarded excessive sum of

No.2 the Oriental Insurance Company Limited, on the other hand,

6) Shri Shailendra Sharma, learned counsel for respondent

of 40%.

the motor accident resulting in permanent disability to the extent

claimant sustained multiple serious injuries including fractures in

compensation of Rs.4,36,499/- only though the appellant/

vehemently argued that the Tribunal has erred in awarding low

5) Shri Rahul Bitharey, learned counsel for the appellant

filing of the claim petition till the date of actual payment.

compensation of Rs.4,36,499/- @ 6% per annum from the date of

directed payment of interest on the above amount of

sustained by him in the motor accident. The Tribunal further

Rs.4,36,499/- as compensation to the claimant for the injuries

conveyance. The Tribunal, thus, awarded a total sum of

attendant; Rs.5,000/- for special diet; and Rs.4,000/- for

Rs.15,000/- towards future pain and suffering; Rs.5,000/- for

amenities; Rs.10,000/- towards loss of expectation of life;

towards pain and suffering; Rs.15,000/- towards loss of

accident; Rs.1,02,499/- towards medical expenses; Rs.10,000/-

the injuries and fractures sustained by the claimant in the motor

earning capacity on account of permanent disability resulting from

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be just and proper compensation in the facts and circumstances of the case. It should neither be a meager amount of compensation, nor a Bonanza.

8) Now we shall examine as to whether the compensation of Rs.4,36,499/- awarded by the Tribunal is just and proper compensation in the facts and circumstances of the present case.

9) Claimant Baleshwar Das Vaishnav was aged about 40 years on the date of the accident. He was serving as Police Constable. As he was in Government Service, all the expenses incurred by him on his treatment were liable to be reimbursed by the State Government, so also the future expenses, if any, that, would be incurred by the claimant on his treatment. The claimant in para 10 of his evidence before the Tribunal has admitted that he is getting the same salary after the accident which he was getting prior to the accident. He further admitted that the injury sustained by him in the motor accident has not adversely affected his income in any manner. There is no material before us to establish that the claimant was denied any promotion on account of the injuries sustained by him in the motor accident.

10) The compensation of Rs.4,36,499/- awarded by the Tribunal when examined in the context of the above mentioned broad features of the case, in our opinion, does not call for any enhancement in this appeal.

11) As we do not find any scope for enhancement of the compensation awarded by the Tribunal, the appeal filed by the

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appellant/ claimant for enhancement of the compensation is liable
to be dismissed and is hereby dismissed.

12) No order as to costs.

Sd/-
Chief Justice

Sd/-
Rangnath Chandrakar
Judge

nimmi