

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 932 of 2017**

1 - Dayalu Ram S/o Hemu Ram Sahu, Aged About 33 Years
R/o Village Amlor, Police Station Chhura, District Gariyaband,
ChhattisgarhClaimant,

---- Appellant

Versus

1 - Birendra Kumar Sahu S/o Narayan Lal Sahu, Aged About 21
Years R/o Village Raveli, Police Station And Tahsil Chhura,
District Gariyaband, Chhattisgarh,

2 - Chuman Lal Dhruv S/o Jahur Singh Dhruv, R/o Village
Lafandi, Post Beltukri, Police Station Rajim, District Gariyaband,
Chhattisgarh,

3 - Branch Manager, Through Bajaj Alliance General Insurance
Company Limited, Shiv Mohan Bhawan Vidhan Sabha Road
Pandri Raipur, P.S. Tahsil And District Raipur, Chhattisgarh,

---- Respondents

Mr. S. P. Sahu, learned counsel for the appellant.

Mr. Deepak Kaushik on behalf of Mr. Shivendu Pandya, learned
counsel for the respondent Nos. 1 & 2.

Mr. Akash Diwan, learned counsel for the respondent No. 3.

Hon'ble Shri Justice Sachin Singh Rajput,**Order on Board****30.04.2024**

This appeal has been filed under Section 173 of the Motor
Vehicles Act, 1988 (for short MV Act) challenging the award dated
02.02.2017 passed in Claim Case No. 42/2014 by the Additional Motor
Accident Claim Tribunal, Gariyaband, District Gariyaband, CG. By the
impugned award, against a claim of Rs. 9,20,000/-, the learned Tribunal
has awarded compensation of Rs. 46,000/- in favour of the appellant /
claimant on account of injuries sustained by him in an accident that
took place on 12.04.2014 by rash and negligent driving of the offending
vehicle (motorcycle) bearing registration No. CG 04 KV 7459 driven by

the respondent No. 1 / driver, owned by respondent No. 2 and insured with respondent No. 3 / insurance company.

2. As per the pleadings of the claim application, at the time of accident, the appellant / claimant sustained severe injuries including multiple fractures and became specially abled. He remained in hospitalization for a considerable period of time and spent huge amount on his treatment.

3. The claim application was resisted by the respondents on various grounds. The insurance company taken a plea that there was violation of terms and conditions of the insurance policy.

4. Learned Tribunal framed issues on the basis of the pleadings made by the respective parties and decided the same in favour of the appellant / claimant and awarded the above stated compensation.

5. Learned counsel for the appellant / claimant vehemently argued that the disability certificate issued from the District Medical Board was filed and exhibited which has been duly proved by the statement of Dr. G. S. Dhruve (AW-2). No award was passed on account of the permanent disability sustained by the appellant. Likewise, the compensation awarded on other admissible heads is also stated to be on the lower side, therefore, the award may suitably be modified.

6. Learned counsel for the respondent No. 3 supports the award and submits that the compensation awarded including the one on conventional heads is just and reasonable, and does not require any interference by this Court.

7. Heard the learned counsel for the parties, considered their rival submissions and perused the record.

8. As regards the functional disability, the disability certificate (Ex. P-24) has been issued by the District Medical Board, District Hospital Gariyaband, CG in which disability was found to be 40%. This certificate was proved by statement of Dr. G. S. Dhruve (AW-2) who was a medical officer and one of the member's of the Medical Board. He has deposed that he has examined the appellant / claimant on 30.07.2014 and there was a fracture in the right clavicle bone which is not attached. The bone had fallen apart. After the examination and X-ray test 40 % permanent disability certificate was issued by the medical board and further deposed that as a result of the said disablement, he would not able to perform his job.

9. Considering the entire evidence, and also relying upon the decision of Hon'ble Supreme Court in the case of **Raj Kumar Vs. Ajay Kumar and another** reported in **(2011) 1 SCC 343**, this Court assesses the functional disability of the appellant / claimant to 20%.

10. Accordingly, this Court computes the compensation in the following manner:-

S. No.	Description	Amount
1.	Monthly income	5000/-
2.	40% Future prospect	2000/-
3.	Total Monthly Income (5000+2000)	7000/-
4.	Total Yearly Income (7000x12)	84,000/-
5.	Functional disability 20% yearly loss	16800/-
6.	Multiplier of 16 applied to assess total loss of dependency	2,68,800/-
7.	Medical Treatment	25,000/-

8.	Pain and Suffering	5,000/-
9.	Transportation & Special diet	5,000/-
10.	For attendant	3000/-
11.	Loss of earning capacity during the treatment	3000/-
12.	For consortium	5000/-
	Total	Rs. 3,14,800/-

11. Since learned Tribunal has already awarded a sum of Rs. 46,000/-, the enhanced amount which he now is entitled to get comes to Rs. 2,68,000/-. Order accordingly.

12. The amount of compensation shall be paid by the insurance company / respondent No. 3 within a period of 60 days with 6% interest, from the date of appeal i.e. 20.06.2017.

13. On such deposit being made, out of the amount worked out by way of enhancement, let 90% thereof be invested in some nationalized bank for a period of three years and the remainder be paid to him through bank transaction.

14. Accordingly, the appeal is allowed in part.

Sd/-
(Sachin Singh Rajput)
Judge