

Order Reserved on 05.02.2024

Order Pronounced on 29.02.2024

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MAC No. 1265 of 2017

1 - Smt. Sharda Sahu W/o Santosh Sahu, Aged About 45 Years
R/o 10 Kholi, Sarkanda, Police Station Sarkanda, Tahsil And
District Bilaspur, ChhattisgarhClaimant.

---- Appellant

Versus

1 - Akhilesh Chouhan S/o Mudrika Chouhan, Aged About 30
Years R/o House No.90, Supela Chingripara, Ward No.5, Bhilai,
District Durg, ChhattisgarhDriver And Owner Of Truck
No. C.G.07 A T 5535

2 - Branch Manager, United India Insurance Company Limited,
Through Branch Office, Gurukripa Tower Second Floor, Vyapar
Vihar Road, Bilaspur, District Bilaspur, Chhattisgarh

---- Respondents

Ms. Ashtha Sharma, learned counsel for the appellant.
Mr. Akash Shrivastava, learned counsel for the respondent No. 2.

CAV Order

Hon'ble Shri Justice Sachin Singh Rajput

This appeal has been filed under Section 173 of the Motor Vehicles Act, 1988 (for short MV Act) challenging the award dated 22.10.2016 passed in Claim Case No. 315/2015 by the Learned 1st Additional Motor Accident Claims Tribunal, Bilaspur, District Bilaspur, CG. By the impugned award, against a claim of Rs. 11,50,000/-, the learned Tribunal has awarded compensation of Rs. 5,31,000/- in favour of the appellant / claimant on account of injuries sustained by her in an accident that took place on 12.12.2014 by rash and negligent driving of the offending vehicle (Truck) bearing registration No. CG 07 AT 5535

driven and owned by the respondent No. 1 / driver cum owner and insured with respondent No. 2 / insurance company.

2. As per the pleadings of the claim application, at the time of accident, the appellant / claimant along with one Raviya Begam had gone to new bus stand to search for a place for her tea stall. A truck bearing registration No. CG 04 /8062 was standing there. At that time, the respondent No. 1 drove the offending vehicle rashly and negligently and dashed the parked truck, which turned turtle and the appellant / claimant came buried under the offending vehicle. She sustained severe injuries on her both legs in the accident and was admitted to CIMS Hospital, Bilaspur and thereafter to Mekahara Hospital Raipur and her ankle of both legs were severed and also sustained injuries on her waist, twice she underwent a surgery and steel rod was inserted. As a result of the accident, the appellant / claimant became permanently disabled. Her husband had died 15 years back. She was earning Rs. 4,700/- per month by doing a job. Hence, total compensation of Rs. 11,50,000/- was claimed.

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 submits that there is permanent disability to the tune of 60% however, looking to the injuries as fingers and ankle parts were amputated therefore, she is not able to

perform any work. No future prospect has been added and income is also taken on the lower side. The amount of compensation on other heads is also on the lower side. She further submits that loss of income during the treatment has also not been considered.

6. Learned counsel for the respondent No. 2 supports the award and submits that just compensation has been awarded and income has been duly considered.

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

8. Learned Tribunal after appreciating the evidence available on record, holding the monthly income of the appellant / claimant to Rs. 4,700/- per month and assessed the functional disability to 60% and awarded compensation in the following manner:-

For loss of earning capacity Rs. 4,73,760/-; for future treatment Rs. 10,000/-; Pain and suffering Rs. 5,000/-; special diet Rs. 5,000/-; Transportation expenses Rs. 5,000/-; Attendant Rs. 5,000/- and Treatment expenses Rs. 31,300/- thus awarded compensation to Rs. 5,31,000/-.

9. Considering the evidence available on record, date of accident; nature of job; this Court assesses the monthly income of the injured to Rs. 5500/-. Keeping all this in mind, this Court proceeds to compute the compensation awardable in favour of the appellant / claimant in the following manner:-

S. No.	Description	Amount
1.	Monthly income	5500/-
2.	25% Future prospect	1375/-
3.	Total Monthly Income (5500+1375)	6875/-

4.	Total Yearly Income (6875x12)	82,500/-
5.	Functional disability 60% yearly loss	49,500/-
6.	Multiplier of 14 applied to assess total loss of dependency	6,93,000/-
7.	Future treatment	50,000/-
8.	For pain and suffering	25,000/-
9.	Loss of earning during treatment	10,000/-
10.	Transportation	10,000/-
11.	Nutritional diet	10,000/-
12.	For loss of amenity and enjoyment of life	50,000/-
13.	Medical Treatment	Rs. 31,300/- (as awarded by tribunal)
	Total	Rs. 8,79,300/-

10. Since learned Tribunal has already awarded a sum of Rs. 5,31,000/-, the enhanced amount which he now is entitled to get comes to Rs. 3,48,300/-. Order accordingly.

11. The amount of compensation shall be paid by the insurance company / respondent No. 2 within a period of 60 days with 6% interest, from the date of application.

12. 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 two years and the remainder be paid to her through bank transaction.

13. Accordingly, the appeal is allowed in part.

Sd/-
(Sachin Singh Rajput)
Judge