



2024:CGHC:38631

**NAFR**

**HIGH COURT OF CHHATTISGARH AT BILASPUR**

**MAC No. 1498 of 2018**

- Ramdas Patel S/o Late Kalinder Prasad Aged About 51 Years Occupation-Service (Clark), Cast Aghariya, R/o Village-Mainey Post-Durgapara, P.S. And Tahsil Bagicha, District- Jashpur, Chhattisgarh.... (Claimant), District : Jashpur, Chhattisgarh

**....Appellant**

**versus**

1. Suresh Kujur S/o Late Nandlal Kujur Aged About 19 Years Cast-Uraon, R/o Village-Peta P.S. And Tahsil-Bagicha, District- Jashpur, Chhattisgarh.....(Driver), District : Jashpur, Chhattisgarh
2. Manoj Toppo S/o Ramdayal Toppo Aged About 26 Years Cast-Uraon, R/o Village-Peta, P.S. And Tahsil-Bagicha, District- Jashpur, Chhattisgarh..... (Owner), District : Jashpur, Chhattisgarh
3. Branch Manager, ICICI Lombard Journal Insurance Company Ltd Veer Sawarker Marg Near Sidh Vinayak Tample Prabhadevi Mumbai, Maharashtra, Local Office/nearest Branch Manager Office Bagicha Building Ground Floor Devendra Nagar Raipur, Chhattisgarh....(Insurer)
4. Branch Manager The Oriental Insurance Company Limited, Atwari Bazar Naya Ganj Raigarh, District- Raigarh, Chhattisgarh

**.... Respondents**

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For Appellant	: Mr. Sanjeev Kumar Sahu, Advocate
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For Respondents No. 1 & 2	: None
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For Respondent No. 3	: Mr. Tessy Abraham, Advocate
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For Respondent No. 4	: Ms. Prerna Agrawal, Advocate on behalf of Mr. Sudhir Agrawal, Advocate
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**Hon'ble Shri Justice Arvind Kumar Verma,**  
**Order on Board**

**30/09/2024**

1. Claimant-appellant has filed this appeal under Section 173 of the Motor Vehicles Act, 1988 (for short 'Act of 1988') for enhancement of the award, challenging the impugned award dated 16.05.2018 passed by Additional Motor Accident Claims Tribunal (FTC), Jashpur (C.G.) in Claim Case No. 114/2015, whereby Tribunal allowed the application filed under Section 166 of the Act of 1988 in part and awarded total sum of Rs. Rs.2,18,000/- as compensation on account of injuries sustained by appellant/Ramdas Patel.
2. The case in brief is such that on 18.11.2014 appellant/Ramdas Patel was going on his motorcycle bearing registration No. CG-13/ UC/3040. On the way near the village-Peta, respondent No. 1 driving his motorcycle bearing registration No. CG/15/CU/4658 rashly and negligently and dashed the motorcycle of appellant, due to which, he suffered grievous injuries on various parts of his body especially in his left eye.

3. Appellant has filed an application under Section 166 of the Act of 1988 seeking total compensation of Rs.14,90,000/- pleading therein that on the date of accident, he was working as 'Clerk' in the Sanskrit College and thereby earning Rs.30,201/- per month as a salary. His family is dependent upon his income. Due to injuries suffered by him in the said accident, he remained admitted in the hospital for treatment and incurred Rs.80,975/- towards his treatment. In support of his submission, he placed reliance upon the judgment passed by Hon'ble Supreme Court in case of **Jawahar Singh V/s Bala Jain & Ors. report in (2011) 6 SCC 425.**
4. Upon appreciation of pleadings and evidence placed on record by respective parties, Tribunal held that appellant got injured on account of rash and negligent driving of the respondent no. 1 due to which, he suffered grievous injuries. Accordingly, Tribunal allowed application in part, awarded Rs.2,18,000/- with interest @ 9% *per annum*, fastened liability upon Respondents No. 1 and 2 to pay the amount of compensation jointly or separately.
5. Learned Counsel appearing for the appellant/claimant submitted that quantum of compensation is not in accordance with law and deserves to be suitably enhanced.
6. The claim application was resisted by the respondents on various ground and counsel for the respondents further submit that the

Tribunal is justified in assessing the income of deceased as Rs.30,201/- per month. The Claims Tribunal after taking into consideration documents placed on record by the Claimant has awarded total amount of compensation as Rs.2,18,000/-. Hence, amount of compensation awarded by the Tribunal to claimants cannot be said to be on lower side, rather it is just and proper in the given facts and circumstances of the case and does not call for any interference.

7. I have heard learned counsel for the parties at length, considered their rival submissions and perused the records with utmost circumspection.
8. From perusal of the record, it is manifest that the claimant claimed an amount of Rs. 14,90,000/- towards the injuries sustained by him. The appellant admitted in hospital at Ambikapur for seven days and thereafter in the hospital at Raipur for a period of five days where he undergone the surgery for which an amount of Rs.1,50,000/- incurred and for diet and other medicines also incurred whopping expenses. It was also reported that he had a fracture in his face. As per Ex.P/18, the appellant's eye treatment is ongoing, which proves that the appellant was undergoing treatment for a long time. The appellant has submitted Ex.P.19, which is the estimate details of the injuries he sustained, but there is no statement of the doctor was recorded. As per the appellant, It is also evident that the appellant was working as Upper Division Clerk and getting Rs.32,300/- per month. Due to serious injuries and permanent disability in the accident, he lost sight

of his left eye and became permanently disabled. The appellant has stated in his statement that he has become incapable of discharging his duties due to loss of vision in his left eye, but the appellant has not disclosed in his statement the situation as to how his job was adversely affected due to temporary disability in his left eye. He also contended that due to accident his left eye was damaged and the vision of his left eye was lost which adversely affected the career of the appellant and he has been removed from the service on the ground that he is not fit for the said post.

9. However, upon bare perusal of the record, it is crystal clear that even after the accident, the appellant is rendering his services on the same post and as such it cannot be said that on account of accident his service has been affected adversely whereas he is getting salary regularly.
10. The Tribunal has awarded only Rs.70,000/- towards physical pain and mental agony which in the considered opinion of this Court is on lower side and requires enhanced suitably. Accordingly, it is enhanced from Rs.70,000/- to Rs.1,00,000/- for physical pain and mental agony of the appellant.
11. Tribunal has not awarded anything with respect to the future medical expenses. Looking to the injuries of the appellant, in future also he will have to carry forward his treatment for which this Court has opined to award Rs.25,000/- to the appellant under the head of future medical expenses.

12. Considering the facts and circumstance of the case, material available on record and in light of judgment passed by the Hon'ble Supreme Court in case of **Jawahar Singh V/s Bala Jain & Ors. reported in (2011) 6 SCC 425**, this Court is recomputing the compensation as below:-

S.No	Particular	Awarded amount by the Court
1.	Medical bills	Rs. 90,000/-
2.	Special Diet, Transportation expenses and attendant	Rs. 50,000/-
3.	Physical pain and Mental Agony	Rs. 1,00,000/-
4.	Loss of Expectation of life	Rs. 1,00,000/-
5.	Future medical expenses	Rs. 25,000/-
6.	Amount for damage of vehicle	Rs.8,000/-
	<b>Total compensation</b>	<b>Rs.3,73,000/-</b>

13. For the forgoing reasons, the appeal is allowed in part. The amount of compensation of Rs.2,18,000/- awarded by the tribunal is enhanced to **Rs.3,73,000/-**. Hence, after deducting the amount of Rs.2,18,000/-, the appellant/claimant is held entitled for an additional amount of Rs.1,55,000/-. As held by the Tribunal, respondents No. 1 and 2 shall deposit the amount of compensation as enhanced by this Court within a period of 60 days from the date of receipt of copy of this order. The

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

Sd/-  
**(Arvind Kumar Verma)**  
**Judge**

\$. Bhilwar