



2025:CGHC:38530

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 108 of 2022

[Arising out of award dated 08.11.2021, passed in Claim Case No.66 of 2020 (Bedram Sahu v. Kishan Kumar Vaishnav and others) by the 1st Additional Motor Accident Claims Tribunal, Janjgir, District Janjgir Champa (CG)]

Bedram Sahu S/o Netram Sahu Aged About 24 Years R/o Birra, Police Station Birra, Tahsil Bamhndih, District Janjgir Champa Chhattisgarh.

... **Appellant**

Versus

1 - Kishan Kumar Vaishnav S/o Nilambar Das Aged About 22 Years R/o Sanjay Nagar Ward, Birra, Police Station Bira, Tahsil Bamhndih, District Janjgir Champa Chhattisgarh. Driver Of The Offiending Vehicle

2 - Modini Soni W/o Anil Soni Aged About 45 Years R/o Dau Mohalla, Birra, Police Station Birra, Tahsil Bamhndih, District Janjgir Champa Chhattisgarh.

3 - Branch Manager, New India Insurance Company Limited, Sada Complex, Transport Nagar, Korba, District Chhattisgarh.

... **Respondents**

[Cause-title taken from Case Information System (CIS)]

For Appellant	:	Mr. Ankush Gupta, Advocate
For Respondent No.1	:	Mr. Rupesh Trivedi, Advocate
For Respondent No.03	:	Mr. Sudhir Agrawal, Advocate

Single Bench: Hon'ble Shri Justice Sanjay K. Agrawal

(Order on Board)

04.08.2025

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 amount of compensation, challenging the



impugned award dated 08.11.2021, passed in Claim Case No.66 of 2020 (Bedram Sahu v. Kishan Kumar Vaishnav and others) by the 1st Additional Motor Accident Claims Tribunal, Janjgir, District Janjgir Champa (CG) [for short the “AMACT”], whereby learned AMACT has awarded a total sum of Rs.2,76,967/- as compensation for the injuries caused by the appellant/claimant in the accident occurred on 21.03.2019.

2. Mr. Ankush Gupta, learned counsel for the appellant submits that the compensation amount awarded by the learned AMACT is on the lower side and same deserves to be enhanced suitably, as the appellant has caused grievous injuries in the accident. Hence, this appeal may be allowed.

3. On the other hand, learned counsel appearing for the respondents would support the impugned award and prays for dismissal of the appeal on the ground that the compensation awarded by the learned AMACT is just and proper and need not to be enhanced.

4. I have heard learned counsel for the parties, considered their rival submissions made hereinabove and went through the record with utmost circumspection.

5. A careful perusal of the record would show that in the accident took place on the date of occurrence, the claimant has suffered simple injury, for which, the learned AMACT has awarded Rs.2,64,467/- towards medical expenses. Further, towards special diet, pain and



suffering and conveyance expenses, the learned AMACT has awarded Rs.5,000/-, Rs.5,000/- & Rs.2,500/- respectively. As such, the claimant has been awarded total compensation to the tune of Rs.2,76,967/-, which in the considered opinion of this Court is just and proper calculation of the compensation awarded to the claimant under the peculiar facts and circumstance of the case. However, the learned AMACT has exonerated the respondent No.03-Insurance company and fastened the liability to pay compensation to the claimant on the respondents No.01 & 02.

6. In this regard, it would be appropriate to notice the decision of the Supreme Court in **Shamanna and another v. Divisional Manager, Oriental Insurance Company Limited and others**¹ whereby it has been held in Para-13 & 15 as under:

“13. Since the reference to the larger Bench in *Parvathneni case* [*National Insurance Co. Ltd. v. Parvathneni*, (2009) 8 SCC 785 : (2009) 3 SCC (Civ) 568 : (2009) 3 SCC (Cri) 943] has been disposed of by keeping the questions of law open to be decided in an appropriate case, presently the decision in *Swaran Singh case* [*National Insurance Co. Ltd. v. Swaran Singh*, (2004) 3 SCC 297 : 2004 SCC (Cri) 733] followed in *Laxmi Narain Dhut* [*National Insurance Co. Ltd. v. Laxmi Narain Dhut*, (2007) 3 SCC 700 : (2007) 2 SCC (Cri) 142] and other cases hold the field. The award passed by the Tribunal directing the insurance company to pay the compensation amount awarded to the claimants and thereafter, recover the same from the owner of the vehicle in question, is in accordance with the judgment passed by this Court in *Swaran Singh* [*National Insurance Co. Ltd. v. Swaran Singh*, (2004) 3

¹ (2018) 9 SCC 650



SCC 297 : 2004 SCC (Cri) 733] and *Laxmi Narain Dhut* [*National Insurance Co. Ltd. v. Laxmi Narain Dhut*, (2007) 3 SCC 700 : (2007) 2 SCC (Cri) 142] cases. While so, in our view, the High Court ought not to have interfered with the award passed by the Tribunal directing the first respondent to pay and recover from the owner of the vehicle. The impugned judgment [*Shamanna v. Laxman*, 2016 SCC OnLine Kar 6928] of the High Court exonerating the insurance company from its liability and directing the claimants to recover the compensation from the owner of the vehicle is set aside and the award passed by the Tribunal is restored.

14. So far as the recovery of the amount from the owner of the vehicle, the insurance company shall recover as held in the decision in *Oriental Insurance Co. Ltd. v. Nanjappan* [*Oriental Insurance Co. Ltd. v. Nanjappan*, (2004) 13 SCC 224 : 2005 SCC (Cri) 148] wherein this Court held that : (SCC p. 226, para 8)

“8. ... For the purpose of recovering the same from the insured, the insurer shall not be required to file a suit. It may initiate a proceeding before the executing court concerned as if the dispute between the insurer and the owner was the subject-matter of determination before the Tribunal and the issue is decided against the owner and in favour of the insurer.”

15. In the result, the impugned judgment [*Shamanna v. Laxman*, 2016 SCC OnLine Kar 6928] of the High Court insofar as enhancement of the compensation to Rs 4,94,700 is concerned is affirmed. Insofar as direction of the impugned judgment directing the appellant claimants to recover the compensation from the owner of the vehicle is concerned, is set aside and the appeal is partly allowed. The first respondent insurance company shall pay the enhanced compensation to the appellant claimants along with the accrued interest and the insurance company shall recover the same from the owner of the vehicle. No costs.”

7. Reverting to the facts of the present case in light of the above



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principles of law laid down by their Lordships of the Supreme Court it would be expedient to direct the respondent No.03 – Insurance Company to firstly pay the entire amount of compensation along with interest to the claimant within 45 days from the date of receipt of a copy of this order and, thereafter, recover it from respondents No.1 and 2 herein. It is ordered accordingly.

8. With aforesaid direction and modification with regard to the order of pay and recover, this appeal stands finally **disposed of**. No cost.

Sd/-
(Sanjay K. Agrawal)
Judge

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