



2025:CGHC:32400

NAFR**HIGH COURT OF CHHATTISGRH AT BILASPUR****MAC No. 495 of 2019**

- Tokeshwar Ram Sahu @ Takeshwar S/o Pardeshi Ram Sahu Aged About 23 Years R/o Village- and Post Officer- Tarsiva, Police Station- Arjuni, Tahsil and District- Dhamtari, Chhattisgarh.

--- Appellant/ Claimant**versus**

1. Kamta Prasad Sahu S/o Vishal Ram Sahu R/o Umargaon, Police Station- And Tahsil- Nagari, District- Dhamtari, Chhattisgarh.....Owner
2. M/s Hanumaan Agro Mahendra And Mahendra Seller Tractor, Sandha Chowk, Dhamtari Road, Kurud, Tahsil - Kurud, District- Dhamtari, Chhattisgarh.....Owner.
3. Ganga Ram Sahu S/o Late Kisun Sahu Aged About 45 Years R/o Village- Rawan, Post Office- Tarsiva, Police Station- Arjuni, Tahsil And District- Dhamtari, Chhattisgarh.....Owner
4. Branch Manager HDFC Irgo General Insurance Company Limited, Third Floor, Chawla Complex, Devendra Nagar Road, Sai Nagar, Raipur, District- Raipur, Chhattisgarh.....Insurer.

--- Respondents**WITH****MAC No. 500 of 2019**

- Nemu Yadav S/o Shri Ramprasad Yadav Aged About 25 Years R/o Village and Post Office Tarsiva, Police Station Arjuni, Tahsil and District - Dhamtari, Chhattisgarh. ---(**Claimant**)

---Appellant**Versus**

1. Kamta Prasad Sahu S/o Vishal Ram Sahu R/o Umargaon, Police Station And Tahsil Nagari, District - Dhamtari Chhattisgarh. ---(**Owner**)
2. M/s Hanuman Agro Mahendra And Mahendra Seller Tractor Sandha Chowk, Dhamtari Road Kurud, Tahsil Kurud, District - Dhamtari Chhattisgarh.



3. Ganga Ram Sahu S/o Late Kisun Sahu Aged About 45 Years R/o Village Rawan, Post Office Tarsiva, Police Station Arjuni, Tahsil And District - Dhamtari Chhattisgarh. --- (Owner)
4. Branch Manager HDFC Irgo General Insurance Company Limited, Third Floor, Chawla Complex, Devendra Nagar Road, Sai Nagar, Raipur District - Raipur Chhattisgarh. --- (Insurer)

--- Respondents

For Appellants-Claimants	: Mr. S.P. Sahu, Advocate
For Respondent No. 4	: Mr. Harshmander Rastogi, Advocate on behalf of Mr. Shokie Yadav, Advocate

Hon'ble Shri Justice Parth Prateem Sahu

Judgment On Board

11/07/2025

1. Challenge in these appeals is to the impugned award dated 17.12.2018 passed by Learned Additional Motor Accident Claims Tribunal, Dhamtari, District Dhamtari, Chhattisgarh (for short "Claims Tribunal") in Claim Cases No. 154/2017 & 153/2017, whereby Claims Tribunal allowed the applications filed under Section 166 of the Motor Vehicles Act, 1988 (for short "Act of 1988") by the applicants in part and awarded ₹ 92,144/- and ₹ 2,09,631/- respectively as total compensation.
2. Facts of the case relevant for disposal of this appeals are that on 07.07.2017 appellants were going from village Raanva to village Tarsiva on a cycle, when they reached near Raanva village pond, a tractor No. CG05G6250 (hereinafter referred to as "offending tractor") driven by Nanku alias Yogeshwar (dead) rashly and negligently dashed the bicycle of appellants and caused accident. In the accident, both the appellants fell down from the bicycle and suffered grievous injuries. They were taken to Gupta Hospital, Dhamtari by the by-passers. In the accident, appellant-Tokeshwar Ram Sahu suffered grievous injuries over parts of body and appellant-Nemu Yadav suffered permanent disability due to injuries.



3. Appellants filed their separate applications under Section 166 of the Act of 1988 seeking compensation of ₹ 8,00,000/- pleading therein that on the date of accident, they were aged about 23 and 25 years physically fit person. They were doing the work of Loader and agricultural activities, earning ₹ 300 per day.
4. Non-applicant No. 1 & 3- submitted their separate reply to the application, while denying the pleadings made therein it was further pleaded that the accident occurred due to own negligence of appellants. On the date of accident, driver of offending tractor was possessed with valid and effective driving licence. Non-applicant No.3 in his reply stated that on the date of accident he was not the registered owner of the offending tractor. The offending tractor was insured by non-applicant No. 4-Insurance company, thus, the liability to pay the compensation would be of insurance company.
5. Respondent No. 4/ non-applicant No. 4-Insurance Company submitted its reply, denying the pleadings made in the claim application and further pleaded that the offending tractor was being driven in breach of conditions of insurance policy. The driver of the tractor was not possessed with valid and effective driving licence to drive the vehicle. Thus in such a situation, insurance company would not be liable to pay compensation, if awarded.
6. Learned Claims Tribunal upon appreciation of oral and documentary evidence brought on record by the respective parties, recorded a finding that the appellant-Tokeshwar Ram Sahu suffered grievous injuries, no permanent disability is caused to him and appellant-Nemu Yadav suffered grievous injuries resulting 40% permanent disability in the accident arising out of rash and negligent driving of offending tractor by Nanku alias Yogehwar (dead). Breach of conditions of insurance policy was found to be proved, calculated the amount of compensation and awarded total sum of ₹ 92,144 in the case



of appellant-Tokeshwar Ram Sahu and ₹ 2,09,631 in case of appellant-Nemu Yadav, fastened the liability to satisfy the amount of compensation upon non-applicant No. 4-Insurance Company.

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7. Learned counsel for appellant/claimant-Takeshwar Ram Sahu would submit that the Claims Tribunal erred in assessing the income of appellant-claimant as ₹ 4500 per month overlooking nature of occupation and the pleadings made in the claim application and awarded meager sum of compensation overlooking the grievous injury suffered by appellant. Claimant suffered compound fracture right proximal tibia; lacerated wounds, he underwent operation. As evident from Ext. P-11 ie., the appellant-injured was operated twice. Claims Tribunal has not awarded any amount of compensation towards the grievous injury and prays for suitable enhancement of amount of compensation.
8. Learned counsel for Respondent No. 4/ Insurance Company opposes the submission of learned counsel for appellant and would submit that the Claims Tribunal in the facts of the case has awarded just compensation which does not call for any interference.
9. I have heard learned counsel for the respective parties and also perused the record.
10. Sofar as the submission made by learned counsel for appellant with regard to assessment of income of appellant on the date of accident is concerned, to prove the fact of income, appellant examined himself as AW-1, in his evidence he stated that he was working as Loader in the rice mill from which he was earning ₹ 300 per day. It is also admitted that he has not produced any document or admissible piece of evidence in support of his income. As no substantive and admissible piece of evidence is brought on record except self serving statement of appellant, Claims Tribunal justified in assessing the



income of appellant-claimant on notional basis, however, fell into error in not taking into consideration factors like age of applicant, date of accident, cost of living, price index and wages prevailing on the date of accident ie., of the year 2017 and has not considered minimum wages fixed by the competent authority for the unskilled, semi skilled and skilled labourer. As the appellant-claimant failed to prove nature of occupation and income of appellant, I find it appropriate to hold the occupation of appellant to be one of the unskilled labourer.

11. As there is no material to suggest the wages fixed at the place where the appellant was resident of, therefore, I find it appropriate to take help of minimum wages fixed by the competent authority and prevailing within the State of Chhattisgarh. As per the notification issued by the competent authority under the Minimum Wages Act, 1948, minimum wages fixed for the period from 01.10.2017 till 31.03.2018 for unskilled labourer for C-Zone area is ₹ 7,930/- per month. Therefore, the income of claimant is assessed as ₹ 7,930 per month. It is ordered accordingly.
12. In the aforementioned facts of the case, looking to the nature of injuries and treatment given to the claimant-injured, it is apparent that the claimant could not able to perform his work for couple of months for earning his livelihood. Considering the nature of injury, treatment, in particular, operation of his right leg, I am of the view that the appellant-claimant might not have worked for earning livelihood for a period of three months and therefore the claimant is awarded ₹ 23,790 (₹ 7930X3) as compensation. Claims Tribunal has awarded an amount of ₹ 47,144 towards medical expenses. Learned counsel for appellant could not able to point out that Claims Tribunal erred in not considering any of the documents of medical expenses, exhibited and proved, escaped consideration. Tribunal accordingly awarded compensation of ₹ 47,144 towards medical expenses, which is affirmed. Claims Tribunal has awarded lumpsum amount of ₹ 30,000/- towards grievous injury, special



diet and pain and suffering and attendant which is grossly on lower side. Appellant suffered compound fracture right proximal tibia; lacerated wounds. The occupation of appellant-claimant is one of labourer and therefore I find it appropriate to award ₹ 15,000/- towards pain and sufferings, ₹ 15,000/- towards grievous injuries, ₹ 8,000 towards special diet, ₹ 10,000 towards attendant. Claimant will further be entitled for ₹ 15,000/- towards future medical expenses.

13. For the foregoing discussion, the amount of compensation to be awarded to appellant-claimant- Tokeshwar Sahu requires recomputation, which is as under.

Particulars	Compensation
Loss of income during laid down period of 03 months (₹ 7930x3)	₹ 23,790/-
Medical expenses (affirmed)	₹ 47,144/-
Mental Pain and sufferings	₹ 15,000/-
Grievous injury	₹ 15,000/-
Attendant	₹ 10,000/-
Future Medical Expenses	₹ 15,000/-
Special Diet and conveyance	₹ 8,000/-
Total	₹ 1,33,934/-

14. Now the appellant/claimant shall be entitled for total sum of compensation of **₹ 1,33,934/-** instead of ₹ 92,144/- as awarded by learned Claims Tribunal. The enhanced amount of compensation shall carry simple interest @ 8% p.a. from the date of filing of claim application till its realization. Any amount paid to the appellant-claimant pursuant to the impugned award shall be adjusted from the amount of compensation as calculated above. Other conditions of the impugned award shall remain intact.

In MAC No. 500 of 2019

15. Learned counsel for appellant-claimant-Nemu Yadav submitted that the Claims Tribunal erred in awarding meager amount of compensation assessing loss of income to the extent of 25% only, overlooking the disability



certificate Ext. P-18 issued by the Medical Board mentioning 40% permanent disability. He also contended that the Claims Tribunal has not awarded any amount of compensation for the loss of income during period of treatment. The amount of compensation awarded on other heads is also on lower side. He contended that the income of appellant-claimant has been assessed as ₹ 4,500 per month only overlooking the date of accident and nature of occupation as pleaded and stated by the claimant and prays for suitable enhancement of amount of compensation.

16. Learned counsel for Respondent No. 4/ Insurance Company opposes the submission of learned counsel for appellant and would submit that the Claims Tribunal in the facts of the case has awarded just compensation which does not call for any interference.
17. I will first consider the ground raised by counsel for appellant-claimant with regard to assessment of income of appellant on the date of accident, to prove the fact of income, appellant except the self-serving statement by examining himself as AW-1, stating to be working as Loader in the rice mill from which he was earning ₹ 300 per day, has not produced any document or admissible piece of evidence in support of his income and occupation. Claims Tribunal justified in assessing the income of appellant-claimant on notional basis, however, fell into error in not taking into consideration factors like age of applicant, date of accident, cost of living, price index and wages prevailing on the date of accident ie., of the year 2017 and has not considered minimum wages fixed by the competent authority for the unskilled, semi skilled and skilled labourer. As there is no evidence with regard to occupation of appellant, he is treated to be a unskilled labourer. As per the notification issued by the competent authority under the Minimum Wages Act, 1948, minimum wages fixed for the period from 01.10.2017 till 31.03.2018 for unskilled labourer for C-Zone area, is fixed as ₹ 7,930 per month. Therefore,



the income of claimant is assessed as ₹ 7,930 per month. It is ordered accordingly.

18. Perusal of record of claim case would show that the claimant has filed copy of Final Report, the F.I.R. was lodged on 12.07.2017. The date of accident was 07.07.2017. Closure report was submitted on account of death of driver of offending tractor. Claimant/ appellant took treatment as in-patient in Gupta Hospital, Dhamtari from 08.07.2017 to 10.07.2017. The doctor upon diagnosis found compound fracture of right distal femur and compound fracture of right proximal tibia. Claimant thereafter took treatment as in-patient from Rameshwaram Orthopaedic hospital, Dhamtari as in-patient from 10.07.2017 to 16.07.2017 and thereafter from 17.07.2017 to 18.08.2017.
19. From the documents exhibited as Ext. P-10, P-11 and P-12 would show that the claimant took treatment for more than one month. Looking to the nature of injury even after discharge from hospital, appellant-claimant could not have worked for about couple of months thereafter. Looking to the nature of injuries, period of treatment, claimant may not have worked for four months. Claims Tribunal has not awarded any amount of compensation towards loss of income during treatment period and therefore appellant is entitled for ₹ 31,720 (7930X4) towards loss of income during period of treatment. Claims Tribunal has awarded ₹ 49,881 towards medical expenses, and ₹ 30,000 lumpsum amount towards grievous injury, pain and suffering, attendant and special diet ₹ 10,000. Tribunal has further awarded 25% of loss of income as ₹ 1,14,750 due to permanent disability.
20. So far as the submission of learned counsel for appellant that the Claims Tribunal erroneously assessed 25% of loss of income, overlooking the disability certificate of 40% is concerned, the disability certificate issued is with regard to part of body only. Doctor is examined as AW-2, he has proved



the Disability Certificate issued by him. Considering the evidence of doctor and other evidence available on record and also considering the permanent disability of appellant on the part of the body may not affect the loss of income in the same ratio but definitely permanent disability on any part of the body will affect upto some extent in the earning capacity of injured. Claimant is stated to be a labourer and considering the aforementioned facts of the case, I do not find any error in the finding recorded by the Claims Tribunal that the claimant suffered 25% loss of income which is correctly recorded.

21. As this Court has assessed income of claimant as ₹ 7,930 per month, therefore amount of compensation to be awarded towards loss of income requires recomputation which is as under.
22. Though the Claims Tribunal has recorded 25% of loss of income, however, not awarded compensation under the head of future prospects. Hon'ble Supreme Court in the case of **Sidram vs. The Divisional Manager, United Insurance Co. Ltd.** reported in (2023) 3 SCC 439 and in **Chandramani Nanda vs. Sarat Chandra Swain & Anr.** reported in 2024 SCC OnLine SC 2859 has held that for the permanent disability also injured claimant will be entitled for addition of income in the ratio as held by Hon'ble Supreme Court in the case as **National Insurance Company Ltd. vs. Pranay Sethi**, reported in (2017) 16 SCC 680.
23. As the claimant on the date of accident was less than 40 years of age and therefore there will be addition of 40% of the established income towards loss of future prospects. Appellant-claimant will further be entitled for compensation under the head of loss of amenities in life. He suffered permanent disability of his leg to the extent of 40% for which this Court finds it appropriate to award ₹ 30,000/- towards loss of amenities in life.
24. For the foregoing discussion, the amount of compensation to be awarded to appellant-claimant- Nemu Yadav requires recomputation, which is as under.



Particulars	Compensation
- Annual Loss of income = ₹ 95,160/- (₹7930x12) - Addition towards loss of future prospects @ 40% (₹ 95,160 + 40% of ₹ 95,160 = ₹ 1,33,224) - Multiplier of 17 (₹ 1,33,224 x 17 = ₹ 22,64,808) 25% loss of income due to permanent disability (₹ 22,64,808 x 25% = ₹ 5,66,202/-)	₹ 5,66,202/-
Loss of income during treatment period for four months (₹ 7930x4)	₹ 31,720/-
Medical Expenses (affirmed)	₹ 49,881/-
Loss of amenities in life	₹ 30,000/-
Attendant cost	₹ 10,000/-
Special diet	₹ 10,000/-
Pain and sufferings	₹ 30,000/-
Total	₹ 7,27,803/-

25. Now the appellants/claimants shall be entitled for total sum of compensation of **₹ 7,27,803/-** instead of ₹ 2,09,631/- as awarded by learned Claims Tribunal. The enhanced amount of compensation shall carry simple interest @ 8% p.a. from the date of filing of claim application till its realization. Any amount paid to the appellant-claimant pursuant to the impugned award shall be adjusted from the amount of compensation as calculated above. Other conditions of the impugned award shall remain intact.
26. In the result, the appeals filed by appellants-claimants are allowed in part and the impugned awards are modified to the extent as indicated herein-above.

Sd/-

(Parth Prateem Sahu)

Judge