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HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 271 of 2021

- Tarang Tamboli S/o Shri Satrugan Tamboli Aged About 12 Years Minor Natural Guardian Through Father Satrugan Tamboli, Aged About 42 Year S/o Anand Ram Tamboli, R/o Ward No. 09, Naya Baradwar, Tahsil Sakti District Janjgir Champa Chhattisgarh

--- Appellant/ Claimant

versus

1. Rajmani Rajak S/o Shri Yadunath Rajak Aged About 26 Years R/o Village Duaari, Post Office, Saraudha, Tahsil And Police Station Devsar, District Sidhi, M. P. At Present R/o Ranisagar Kharsiya District Raigarh Chhattisgarh**Driver**
2. Mohammad Nausad S/o Yunus R/o Village Pathanpara Kharsiya Police Station And Tahsil Kharsiya District Raigarh Chhattisgarh**Owner**
3. New India Insurance Company Limited Branch Raigarh Police Station And Tahsil Raigarh District Raigarh Chhattisgarh**Insurer**

--- Respondents/ Non-applicants

For Appellant	: Mr. Deepak Kumar Singh, Advocate
For Resp. No. 3	: Mr. Anil Gulati, Advocate

Hon'ble Shri Justice Parth Prateem Sahu

Judgment On Board

08/08/2025

1. Appellant, father of Tarang Tamboli aged about 12 years, has filed this appeal under Section 173 of the Motor Vehicles Act, 1988 (for short 'the Act of 1988') challenging award dated 10.10.2019 passed by learned Second Additional Motor Accident Claims Tribunal, Sakti, District Janjgir-Champa, Chhattisgarh in Claim Case No. 52/2016, whereby learned



Claims Tribunal after appreciation of pleadings and evidence has awarded total compensation of ₹ 16,38,508/- with interest @ 9% p.a. from the date of filing of application till realization and fastened liability to satisfy the amount of compensation upon non-applicant 3-Insurance Company.

2. This appeal is filed seeking enhancement of amount of compensation awarded by the Claims Tribunal. The motor accident occurred on 08.04.2015 at about 02:30 pm near Nehru Chowk, Baradwar, by one Hyva truck bearing number CG13 D 3072 (henceforth called as “offending truck”) driven by its driver non-applicant No. 1, rashly and negligently, due to which permanent disability suffered to Tarang Tamboli is not in dispute.
3. In the aforementioned facts of the case, this Court is not going into the facts of the case discussing the manner in which the accident occurred as pleaded by the claimant in his pleadings, reply filed by the non-applicants therein and also adverted by the learned Claims Tribunal in the impugned award but only considering the prayer made by learned counsel for appellant in this case seeking enhancement of amount of compensation.
4. Learned counsel for appellant submits that appellant suffered grievous head injury in a motor accident. He thereafter was taken to hospital and referred to higher hospital and got the injured admitted in Ram Krishna Care, Hospital, Raipur on 08.04.2015 and discharged on 04.06.2015. He also submitted that thereafter appellant took treatment continuously from Ram Krishna Hospital, Raipur, however, he could not cured fully and due to sever head injury his IQ is reduced to 35%. He could not able to do any work of his own even the daily routine activities and needs one attendant. Treating doctor, Dr. S.L. Madhariya of Ram Krishna Care Hospital was also examined before the Claims Tribunal as AW-3. In his evidence, he categorically stated nature of injuries and its complication with which



appellant is suffering. He stated that appellant would not be able to do any work for whole of his life and will require one attendant. Claims Tribunal while considering the claim application seeking compensation of ₹ 67,50,000 has awarded meager sum of compensation of ₹ 16,38,508 only. Claims Tribunal has not awarded proper compensation under the head of pain and suffering, special diet and attendant. No amount of compensation is awarded towards loss of future prospects and marriage prospect. In support of his contention, he places reliance upon the decision of Hon'ble Supreme Court in the case of **Divya vs. National Insurance Company Ltd.** reported in **2023(1) CGLJ 338 (SC)**.

5. On the other hand, learned counsel for the Respondent No. 3-Insurance Company opposes the submission of learned counsel for appellant and would submit that the injured appellant was only 12 years of age on the date of accident, Claims Tribunal computing his income notionally awarded compensation towards loss of earning. Tribunal awarded compensation under all heads including future medical expenses and hence, compensation awarded by the Tribunal is just and proper and does not call for any interference.
6. I have heard learned counsel for the parties and perused the records.
7. The only point which requires consideration of this Court is whether the compensation awarded by Claims Tribunal is just and reasonable?
8. Claims Tribunal in para-33 of the impugned award has assessed 100% functional disability of the appellant which is not put to challenge and therefore to decide the appeal filed by claimant seeking enhancement of compensation, this Court is also considering that the appellant suffered 100% functional disability. The nature of disability is stated by the witness



(treating doctor), AW-3, Dr. S.L. Madhariya, he said that head injury suffered by appellant-claimant on his head affected his brain due to which he became disabled to walk himself and has to live his entire life depending on others. He could not able to control his body and will not be in a position to take decision.

9. In the aforementioned facts of the case, it is to be considered whether the Claims Tribunal justified in not awarding any compensation towards loss of future earning, as the claimant will grow and will cross the age of majority also. Hon'ble Supreme Court while considering the compensation to be awarded to the injured minor child in the case of **Master Ayush v. Branch Manager, Reliance General Insurance Co. Ltd. & another**, reported in (2022) 7 SCC 738, relying upon its decision in case of **Kajal vs. Jagdish Chand & ors**, reported in (2020) 4 SCC 413, observed that the notional income should be calculated on the basis of minimum wages payable to a skilled worker. It has also been observed that in addition to the minimum wages for skilled worker, the claimant would also be entitled to addition of 40% of assessed income towards future prospects in view of the judgment of *National Insurance Company Limited vs. Pranay Sethi & ors*, reported in (2017) 16 SCC 680.
10. In case of **Master Jyothis Raj Krishna represented by his next friend and father Rajesh Kumar vs. Sunny George**, reported in 2024 SCC Online Ker 6875, the High Court of Kerala has observed that "This Court is conscious of the fact that by referring to the provisions of the Minimum Wages Act, 1948, for the purpose of notional income of a minor child, this Court has never ignored the future of a blooming young mind nor has closed its eyes over the bright future of the child and the prospects which he may have secured but for this fatal accident."



11. Claims Tribunal while computing the compensation under the head of loss of income has taken notional income of appellant as ₹ 30,000 p.a. Notional income of ₹ 30,000 was assessed by the Hon'ble Supreme Court in the case of **Kishan Gopal & anr v. Lala & ors** reported in (2014) 1 SCC 244 in which date of accident was of the year 1992. Considering the date of accident in that case and the notional income as assessed by the Hon'ble Supreme Court may be according to the wages prevailing on the date of accident.
12. For the foregoing, this Court finds it appropriate to adopt the accepted principle of fixing notional income to quantify loss. The minimum wages fixed by the State Government for unskilled/skilled laborers provide a reasonable and objective benchmark to ascertain the minimum earning capacity of the deceased child, had he survived and entered the workforce.
13. Considering the date of accident to be 08.04.2015, the minimum wages fixed for the semi-skilled labourer for the period from 01.04.2015 to 30.09.2015 is ₹ 5,969 per month. Therefore, I find it appropriate to fix the monthly income of appellant on notional basis, rounding off to as ₹ 6,000/- per month. It is ordered accordingly. As per the decision of Hon'ble Supreme Court in the case of **Sidram vs. The Divisional Manager, United Insurance Co. Ltd.** reported in (2023) 3 SCC 439, there shall be addition of 40% of the assessed income to the income of claimant as observed in the case of Pranay Sethi (supra) for the purpose of computing the amount of compensation. Looking to the age of claimant to be 12 years on the date of accident, I find it appropriate to apply multiplier of 18. Health condition of appellant is stated by the witness i.e., treating doctor, that he will require attendant for whole of his life and therefore, I find it appropriate to compute the amount of compensation considering the expenditure to be



incurred towards attendant @ ₹ 4,000 per month, ie., ₹ 48,000 p.a. and applying multiplier of 18. Claimant will further be entitled for medical expenses incurred during course of treatment of ₹ 6,55,672 as awarded by the Claims Tribunal. The amount of compensation awarded towards future medical expenses of ₹ 3,27,836 is enhanced to ₹ 5,00,000. Amount of compensation awarded towards mental pain and suffering of ₹ 1,00,000 is enhanced to ₹ 2,00,000. Compensation amount towards special diet of ₹ 10,000 is enhanced to ₹ 33,000. Compensation amount awarded towards conveyance expenses of ₹ 85,000 appears to be just and proper. Apart from the above, claimant will also be entitled for ₹ 3,00,000 towards loss of amenities in life and marriage prospects.

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

Particulars	Compensation
A. Annual Loss of income/ dependency = ₹ 72,000/- (₹ 6000x12)	₹ 18,14,400/-
B. Addition towards loss of future prospects @ 40% (₹ 72,000 +40% of ₹ 72,000 = ₹ 1,00,800)	
C. Multiplier of 18 ₹ 1,00,800 x 18 = ₹ 18,14,400/-	
Attender charges (₹ 48000x18)	₹ 8,64,000/-
Medical Expenses (maintained)	₹ 6,55,672/-
Future Medical Treatment (enhanced)	₹ 5,00,000/-
Mental Pain and suffering (enhanced)	₹ 2,00,000
Special Diet (enhanced)	₹ 33,000
Conveyance expenses (maintained)	₹ 85,000
Loss of-amenities in life and marriage prospect	₹ 3,00,000
Total	₹ 44,52,072/-

15. Now the appellant/claimant shall be entitled for total sum of compensation of ₹ 44,52,072/- instead of ₹ 16,38,508/- as awarded by learned Claims Tribunal. Enhanced amount of compensation shall carry interest @ 8% p.a. from the date of filing of claim application till its realization.



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- Any amount paid to the appellant-claimant pursuant to the impugned award shall be adjusted from the amount of compensation as calculated above.
- Rest of the conditions of the impugned award as imposed by the Claims Tribunal shall remain intact.

16. In the result, appeal is allowed in part and the impugned award is modified to the extent as indicated herein-above.

Sd/-

(Parth Prateem Sahu)
Judge

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