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HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 1241 of 2022

Dharam Das S/o Aanad Das Aged About 30 Years R/o Village Dewari, Post And Thana Baki Mongara Tahsil Katghora District- Korba (C.G.) Hall Mukam Village- Pandhi Thana- Seepat, Tahsil And District Bilaspur, Chhattisgarh

... Appellant

versus

1 - Ram Kishan S/o Ramesh Pendro Singh, Aged About 24 Years, R/o Village Chakabuda, Post- Jawali, Tahsil- Katghora District- Korba (Driver Of The Offending Vehicle Bolero No. CG 12/A.Q. /8726), Chhattisgarh

2 - Ramesh Singh S/o Shri Paltu Singh R/o House No. 136, Ward No. 4, Goutiya Mohalla, Village Chakabuda, Katghora, District Korba (Owner Of The Offending Vehicle Bolero No. CG 12/A.Q. /8726), Chhattisgarh

3 - Branch Manager The Oriental Insurance Company Limited, Branch Office 1st Floor Rama Trade Center Old Bus Stand Bilaspur Tahsil And District Bilaspur (Insurer Of The Offending Vehicle Bolero No. CG 12/A.Q. /8726), Chhattisgarh

... Respondent(s)

For Appellant : Mr. A. L. Singroul, Advocate

For Respondent No.3 : Mr. Akash Shrivastava, Advocate

Hon'ble Shri Justice Sanjay Kumar Jaiswal

Order On Board

19/08/2026

1. This appeal under Section 173 of the Motor Vehicles Act, 1988 (for short, "the Act of 1988") has been preferred by the injured appellant/claimant questioning the award dated 07.09.2022 passed by 4th Additional Motor Accident Claims Tribunal, Bilaspur (C.G.) in Claim Case No.818/2019, whereby a total sum of ₹3,49,346/- has been awarded as compensation for the injuries sustained by the appellant Dharam Das in the motor accident which occurred on 28.04.2018.
2. Learned counsel appearing for the appellant submits that the Medical Board had issued disability certificate, Ex. P-31, which was duly proved by Dr. S. K. Chandel, Orthopaedic Specialist and a member of the District Medical Board. As per the said certificate, the appellant had suffered 55% permanent disability. However, the Tribunal, without properly appreciating the medical evidence available on record, assessed the disability at only 18%, thereby resulting in an erroneous computation of compensation. It is further submitted that the appellant was engaged in labour work, particularly in tower-line work, and therefore, the functional impact of the disability on his earning capacity ought to have been properly considered. It is also submitted that no amount has been awarded towards loss of income during the period of treatment and future medical expenses, and the amounts awarded under other heads are also inadequate. Learned counsel, therefore, prays for suitable enhancement of the compensation.
3. Per contra, learned counsel appearing for respondent

No.3/Insurance Company opposes the submissions advanced on behalf of the appellant and submits that, having regard to the evidence available on record and the nature of injuries sustained by the appellant, the compensation awarded by the Tribunal is just and reasonable and does not call for any interference.

4. Heard learned counsel for the parties and perused the record with due care.
5. Dr. S. K. Chandel, Orthopaedic Specialist and a member of the District Medical Board, proved disability certificate Ex.P-31 and deposed that the injured, Dharam Das, had undergone surgery for the knee joint of his left leg, which had improperly united, resulting in deformity and stiffness of the said limb. He further stated that the injured had suffered a fracture of the left ankle, resulting in deformity of the left ankle and talus, with NVN, causing 55% permanent disability affecting his walking. In his cross-examination, the doctor clarified that the disability certificate, Ex.P-31, records 55% disability of the injured Dharam Das in relation to his locomotion, which constitutes disability of the whole body.
6. From the evidence available on record, it is evident that the injured/appellant was working as a labourer in tower-line work. The nature of his occupation necessarily requires physical mobility and use of the affected limb. In such circumstances, the assessment of disability at 18% by the Tribunal does not appear to be commensurate with the medical evidence. Having regard to the disability certificate Ex.P-31, the medical evidence and the nature of work performed by the appellant, this Court considers it just and proper to assess the disability of the appellant at 40% for the

purpose of computation of loss of future earning capacity.

7. There is no dispute with regard to the age of the appellant, which has been determined by the Tribunal as 30 years, and his monthly income, which has been assessed at ₹8,060/-. Hence, the annual income comes to ₹96,720/-. The appellant was a non-salaried person aged about 30 years. Therefore, in view of the settled principles governing addition towards future prospects, 40% of the income (₹38,688/-) is required to be added towards future prospects. Annual income after addition of future prospects comes to ₹1,35,408/-. Applying the multiplier of 17, the amount would come to ₹23,01,936/-. Taking the disability at 40%, the total loss of future earning capacity is accordingly assessed at ₹9,20,774/- (rounded off).
8. It is further borne out from the record that the appellant had suffered a fracture of the left ankle, resulting in deformity of the left ankle and talus, with NVN, and remained hospitalized for about 21 days. His treatment continued from 28.04.2018 to 16.08.2018. Having regard to the nature of injuries, duration of hospitalization and period of treatment, it is reasonable to hold that the appellant must have incurred expenses towards nutritious diet, attendant charges and transportation, apart from having undergone physical and mental pain and suffering. The possibility of future medical treatment and expenditure cannot also be ruled out. It is equally well settled that certain incidental expenses incurred by an injured person are incapable of being proved by production of receipts or documentary evidence.

Accordingly, considering the overall facts and circumstances of the case, the compensation awarded by the Tribunal deserves to be modified as under:

Heads	Amount awarded by the Tribunal	Modified/ enhanced amount
Loss of income	2,95,970	9,20,774
Medical expenses	13,376	15,000
Nutritious Diet & Attendant	5,000	25,000
Physical & Mental Agony	30,000	50,000
Travelling/transportation	5,000	10,000
Loss of income during treatment for about 4 months	Nil	25,000
Future medical expenses	Nil	25,000
Total	Rs. 3,49,346	Rs.10,70,774

9. In view of the aforesaid analysis, the compensation of ₹3,49,346/- awarded by the Tribunal is hereby enhanced to ₹10,70,774/-. Consequently, after adjusting the amount of ₹3,49,346/- already awarded by the Tribunal, the appellant/injured shall be entitled to an additional amount of **₹7,21,428/-**. The aforesaid additional amount shall carry interest at the rate of 6% per annum from the date of filing of the claim petition before the Tribunal till its actual realization. The remaining terms and conditions of the impugned award shall remain unaltered.
10. In the result, the appeal is **partly allowed** and the impugned award is modified to the extent as indicated herein-above.

Sd/-
(Sanjay Kumar Jaiswal)
Judge