
(2019) 02 CHH CK 0040

In the Chhattisgarh High Court

Case No : Miscellaneous Appeal Of Compensatic No. 512 Of 2014

Kumari Sangeeta

APPELLANT

Vs

Indu Sahu & Others

RESPONDENT

Date of Decision : 06-02-2019

Acts Referred:

Motor Vehicles Act, 1988 — Section 166, 173

Citation : (2019) 02 CHH CK 0040

Hon'ble Judges : Gautam Chourdiya, J

Bench : Single Bench

Advocate : Vikas Shrivastava, Arvind Dubey, Amit Buxy

Final Decision : Partly Allowed

Judgement

Gautam Chourdiya, J

1. This appeal is by the claimant under Section 173 of the Motor Vehicles Act, 1988 against the award 26.2.2014 passed by VI Additional Motor Accident Claims Tribunal, Durg (CG) in Claim Case No. 45/2013 awarding total compensation of Rs.1,85,414/- with interest @ 7% per annum from the date of application till realization, fastening liability on the non-applicant No.3/insurance company jointly and severally along with non-applicants No. 1 & 2/driver & owner.

2. As per claim petition, on 17.5.2012 at about 10 am while claimant Ku. Sangeeta, student of Class-12th, was going on bicycle, non-applicant No.1 Indu Sahu by driving vehicle tractor bearing No.CG 07 NA 1299 in a rash and negligent manner, dashed the claimant, as a result of which she suffered grievous injuries including fracture of her backbone. She remained hospitalized from 17.5.2012 to 8.6.2012 and is still under treatment.

3. On claim petition being filed by the claimant under Section 166 of the Motor Vehicles Act, the Tribunal considering the evidence led by both the parties passed an award as mentioned above.

4. Learned counsel for the appellant/claimant submits that as per Ex.P/48 i.e. the disability certificate and the evidence of AW-4 Dr. Akhilesh Yadav, the claimant sustained 30% disability due to injury on her backbone (L-3). In para-7, the doctor has stated that after treatment the said disability may either reduce or aggravate. The claimant is an unmarried girl, her future prospect has been badly affected due to this injury, no amount has been awarded towards pain and suffering and further the Tribunal has not awarded sufficient amount towards conveyance and other heads. Therefore, the compensation is required to be enhanced suitably.

5. On the other hand, learned counsel for the respondent/insurance company supports the impugned award and submits that the Tribunal considering all the relevant aspects of the matters has rightly awarded compensation which needs no interference by this Court.

6. Heard learned counsel for the parties and perused the material available on record.

7. As per statement of AW-4 Dr. Akhilesh Yadav and the disability certificate Ex.P/48, it stands proved that the claimant sustained 30% disability due to injury on her backbone L-3 caused in the said accident. The doctor (AW-2) has stated in cross-examination that he issued temporary disability certificate only on the ground that one year was not completed after the accident at the time of issuance of such certificate. Therefore, looking to the nature and extent of injury sustained by the claimant, the fact that she is required to have treatment in future also, family members of the claimant would be required to accompany her for her treatment; the claimant had to bear pain and suffering during treatment and the hike in prices, this Court is of the opinion that the claimant is entitled for compensation in the following manner:

Sl.No.

Heads

Calculation (in rupees)

01.

Towards Medical Bills

55,514/- (as awarded

by Tribunal)

02.

For future treatment.

40,000/-

03.

For conveyance

4,000/-

04.

For special diet

5,000/-

05.

For attendant

7,000/-

06.

For loss of earning

1,00,000/- (as awarded by Tribunal)

07.

For pain and suffering

25,000/-

Total:

2,36,514/-

Since the Tribunal has already awarded Rs.1,85,414/- after deducting the same from the above amount, the claimant is held entitled for additional compensation of Rs.51,100/- with interest @ 7% per annum from the date of application till realization. However, rest of the conditions of the impugned award shall remain intact.

8. In the result, the appeal is allowed in part with modification in the impugned award to the above extent.