

(2019) 06 CHH CK 0111

In the Chhattisgarh High Court

Case No : Miscellaneous Appeal (Civil) No. 271 Of 2014

Nansai

APPELLANT

Vs

Oriental Insurance Company Limited And Ors

RESPONDENT

Date of Decision : 26-06-2019

Acts Referred:

Motor Vehicles Act, 1988 — Section 166, 173

Citation : (2019) 06 CHH CK 0111

Hon'ble Judges : Gautam Chourdiya, J

Bench : Single Bench

Advocate : Laxmi Kashyap, T.K. Tiwari, Anshul Singhania

Final Decision : Partly Allowed

Judgement

Gautam Chourdiya, J

1. The present is an appeal under Section 173 of the Motor Vehicles Act, 1988 preferred by the injured- Claimant/Appellant, seeking enhancement of the compensation awarded by the Motor Accident Claims Tribunal, Surajpur, District Surajpur (C.G.) vide award dated 04.01.2014 passed in Claim Case No. 23 of 2012.
2. The Claimant/Appellant claimed compensation of Rs.8,50,000/- by filing a claim petition under Section 166 of the Motor Vehicles Act, 1988 for the injury sustained by him in the motor accident.
3. Facts of the case, in brief, are that on 02.06.2011 the Claimant/Appellant-Nansai was going from Premnagar to Morga with Ganeshwar and Kadam Kunwar by motorcycle. When he reached near Tara-Chowki, Respondent No.3/non-applicant No.3, driver of the offending Truck bearing registration No. CG- 04/JA/6328, owned by non-applicant No. 2 and insured with non-applicant No.1, M.A.(C) No. 271 of 2014 driving the said Truck in a rash and negligent manner, dashed the motorcycle. As a result thereof, the Appellant sustained injuries on his both legs, head, hands and other parts of the body.

4. The learned Tribunal, in the impugned award has awarded a compensation of Rs.25,000/- in favour of the Appellant/Claimant with interest @ 8% per annum from the date of application till its realization and has fastened liability on the Respondent No.1/non-applicant No.1 alongwith non-applicants No. 2 & 3 jointly and severally to pay compensation to the Claimant.

5. No counter appeal has been filed by the Respondents/non-applicants as submitted by learned counsel for the parties.

6. Learned counsel for the Appellant submits that due to accident, the Appellant was unable to speak and walk comfortably and not able to do the work of labour and agriculture in proper manner. She also submits that the Tribunal grossly erred in not considering the loss of income of the Claimant and not granting any amount under other permissible heads and has awarded a lump sum amount of compensation of Rs.25,000/- which deserves to be enhanced suitably.

7. On the other hand, learned counsel for the Respondents 1 and 3 supports the impugned award and submits that the Tribunal considering all the relevant aspects of the matter has rightly awarded compensation which needs no interference by this Court.

8. I have heard the learned counsel appearing for the parties and perused the impugned award including the records of claim petition.

9. Considering the facts and circumstances of the case, the oral and documentary evidence adduced by the parties, in the present case, Doctor has not been examined; no other documentary evidence available on record regarding income of the deceased as well as no specific proof of medical expenses, the Tribunal was justified in awarding lump sum amount of compensation of M.A.(C) No. 271 of 2014 Rs.25,000/- to the Claimant. However, considering the facts and circumstances of the case and the fact that as per MLC report (Ex.-A/5); X-ray report of CHC, Udaypur (Ex.-A/7) and medical-sheet & discharge-ticket of District Hospital Ambikapur (Ex.-A/8 & Ex.-A/10), this Court is of the view that the interest of justice will be safeguard by providing lump sum additional compensation of Rs.5,000/- towards inconvenience caused and loss suffered during treatment to the Claimant.

10. Accordingly, the present appeal is partly allowed and the Appellant/Claimant is hereby awarded additional compensation amount of Rs.5,000/- alongwith interest @ 8% per annum from the date of application till its realization. However, rest of the conditions of the impugned award shall remain intact.

11. No order as to costs.