CGHC010001812023 2026:CGHC:45971

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 11 of 2023

1 - Shivkumar Rajak S/o Dhajaram Rajak Aged About 42 Years R/o Ward No.36, Near Primary School Torwa, Police Station Torwa, District : Bilaspur, Chhattisgarh

... Appellant(s)

versus

1 - Mo. Aftab S/o Mohammad Vasir Ali Aged About 28 Years, R/o House No.143, Ward No.38, Adarsh Nagar Darogamuda, Police Station Jutmill, District Raigarh (C.G.) (Driver Of The Vehicle Bolero No. C.G.10 C-6104)

2 - Vasim Ali S/o Mohammad Varis Ali Aged About 28 Years R/o Sahdev Pali, Raigarh, Police Station Jutmill, District Raigarh (C.G.) (Owner Of The Vehicle Bolero No. C.G.10 C-6104)

3 - The New India Insurance Company Limited Through Branch Manager Branch Office- 2nd Floor, Rama Trade Center, In Front Of Rajiv Plaza, Old Bus Stand Road, Bilaspur, Tahsil And District Bilaspur (C.G.) (Insurer Of the Vehicle Bolero No. C.G.10 C-6104)

... Respondent(s)

For Appellant (s)	:	Shri Anand Kesharwani, Advocate
For Respondent No.2	:	None, though served.
For Respondent No.3	:	Ms. Prerana Agrawal, Adv. on behalf of Shri Sudhir Agrawal, Advocate

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({Hon’ble Shri Justice Sachin Singh Rajput})

Order on Board

30/10/2026

This is an appeal under Section 173 of the Motor Vehicles Act, 1988 (for short ‘the MV Act’) assailing legality, correctness and validity of the award dated 30/09/2022 passed by the 2nd Additional Motor Accident Claims Tribunal, Bilaspur, in claim case No.536/2019. By the award impugned, against a claim of Rs.11,00,000/-, learned Claims Tribunal has awarded Rs.10,286/- in favour of the appellant/claimant on account of injury sustained by him in an accident that occurred on 09/02/2018 by rash and negligent driving of the offending vehicle i.e. Bolero pick-up bearing registration No.CG10 C-6104 driven by respondent No.1, owned by respondent No.2 and insured with respondent No.3.

2. As per pleadings of the application filed under Section 166 of the M.V.Act, the respondent No.1 drove the offending vehicle rashly and negligently and dashed the vehicle in which the appellant/claimant was traveling resulting into severe injuries on his person including one fracture on the right leg. He was treated in Primary Health Centre, Masturi, CIMS, Bilaspur and other private hospitals. Thus, the claim application was filed.

3. Respondents 1 and 2 remained ex-parte and has not filed any written statement. Respondent No.3/insurance company filed written statement and denied the averments of the claim application and pleaded that there is violation of the terms and conditions of the insurance policy. Learned Claims Tribunal framed issues and decided the same in favour of the claimant and awarded the abovestated compensation however, while deciding issue no.4 with regard to violation of terms and conditions, it was found to be proved against the respondents 1 and 2 and the insurance company was exonerated, however, doctrine of pay and recover was applied and the insurance company was directed to pay the amount first and recover it from the owner and driver of the offending vehicle.

4. Learned counsel for the appellant submits that the amount of compensation is on the lower side. The appellant has suffered a fracture and remained in hospital for 4 days, thus the amount of compensation may be suitably enhanced.

5. On the other hand, learned counsel for the insurance company opposes the

above submission and submits that the plea with regard to fracture has not been proved by filing X-Ray report/plate which has been rightly disbelieved. No grievous injuries were found on the person of the appellant/claimant and thus, the amount of compensation has rightly been awarded.

6. Heard learned counsel for the parties and perused the records.

7. According to the appellant/claimant, he has sustained fracture on his right leg. Learned Claims Tribunal has categorically held that no X-Ray report/plate has been placed on record, and thus found that the same could not be proved. Learned Claims Tribunal, after assessment of evidence, awarded compensation in the following manner -

Sr. No.	**Heads**	**Amount of compensation**
1.	Loss of income	Rs.5,286/-
2.	Mental agony and physical suffering	Rs.2,500/-
3.	Nutritious diet	Rs.2,500/-
	Total	**Rs.10,286/-**

8. Taking into consideration the nature of injuries; period of hospitalization and income of the deceased, this Court is of the opinion that further sum of Rs.10,000/- would make the compensation just. Therefore, respondent No.3 is directed to deposit the amount of Rs.10,000/- within a period of 60 days from the date of receipt of copy of this order. Rest of the conditions of the impugned award shall remain intact. The appeal is accordingly allowed.

Sd/-

(Sachin Singh Rajput)
JUDGE

Deepti