



2025:CGHC:22991

NAFR

**HIGH COURT OF CHHATTISGARH AT BILASPUR**

**MAC No. 1656 of 2019**

- Smt. Kunti Bai W/o Prithvi Dhruw Aged About 45 Years R/o Village Seoni Kala, Police Station and Tahsil Kurud, District - Dhamtari, Chhattisgarh, At Present R/o Laxmi Nagar, Pachpedi Naka, Police Station Tikrapara, Raipur, Tahsil And District - Raipur, Chhattisgarh.

**--- Appellant/ Claimant**

**versus**

1. Dinesh Kumar Tarak S/o Shankar Lal Tarak Aged About 28 Years R/o Village Amner, Police Station And Tahsil Abhanpur, District - Raipur, Chhattisgarh. (**Driver** of Offending Vehicle Tractor Trolley Bearing Registration No. 04-ZQ-6482)
2. Babu Lal Sahu S/o Punit Ram Sahu R/o Village Khairjhinti, Police Station And Tahsil Dhamtari, District - Dhamtari, Chhattisgarh. (**Owner** of Offending Vehicle Tractor Trolley Bearing Registration No. 04-ZQ-6482)
3. The New India Insurance Company Ltd. Through Divisional Manager, R/o D. I. Rajendra Nagar, Micro Office (460107), Shop No. 3, J. F. Place, Kanshiram Nagar, Raipur, Tahsil and District - Raipur, Chhattisgarh. (**Insurer** of Offending Vehicle Tractor Trolley Bearing Registration No. 04-ZQ-6482)

**--- Respondents**

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For Appellant	: Mr. G.M. Hasan, Advocate
For Respondent No. 3	: Mr. Anil Gulati, Advocate

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**Hon'ble Shri Justice Parth Prateem Sahu**

**Order On Board**

**11/06/2025**

1. Challenge in this appeal is to the award dated 25.07.2019 passed by Learned Motor Accident Claims Tribunal, Raipur, Chhattisgarh (for short "Claims Tribunal") in Claim Case No. 665/2017, whereby learned Claims Tribunal allowed the application filed under Section 166 of the Motor Vehicles Act,

1988 (for short "Act of 1988") in part and awarded total sum of ₹ 44,879/- as compensation in injury case.

2. Facts of the case relevant for disposal of this appeal are that on 24.02.2017 the applicant Smt. Kunti Bai Dhruw along with her husband Prithviraj Dhruw was going from village Seonikala to see the Rajim fair sitting as pillion on motor cycle no. CG-05E-1340. When they reached at Somwari Bazar, Navapara, Police Station Gobra-Navapara, District Raipur, at about 3.00-4.00 p.m, they stopped their motor cycle, turning off the engine. Non-applicant No.1/driver of tractor-trolley no. CG-04 ZQ-6482, while driving the tractor-trolley rashly and recklessly, dashed the motorcycle due to which Smt. Kunti Bai Dhruw suffered grievous injuries and her left leg got fractured. Her husband Prithviraj Dhruw also got injured. A report of the accident was registered on the information of Prithviraj Dhruw at Gobra-Navapara Police Station over phone, on which crime no. 46/2017 for alleged offence under Sections 279, 337 was registered against non-applicant no. 1 Dinesh Kumar.
3. Appellant filed an application under Section 166 of the Act of 1988 seeking compensation of ₹ 30,00,000/- pleading therein that on the date of accident she was about 45 years of age, was an able bodied person. She was doing the labourer work and was earning ₹ 6,000/- per month to maintain her family. Due to motor accidental injuries, she is unable to do any work. She also had to keep a maid for her care. For the treatment of injuries sustained in the said accident, the applicant was admitted to Rajdhani Super Specialty Hospital, Pachpedi Naka, Raipur, where she got her treatment done from 24.02.2017 to 28.02.2017 and her treatment is still continuing.
4. Respondent No. 1 & 2/ Non-applicant No. 1 & 2 -driver and owner of the tractor-trolley jointly submitted their reply, denying all the adverse pleadings made in the application, it was further stated that there was no accident by tractor-trolley no. CG-04 ZQ-6482. It is stated that at the time of accident,

the applicant and her husband were travelling together on a motor cycle and the driver of the motor cycle himself was driving the motor cycle negligently, due to which the applicant Smt. Kunti Bai fell from the motor cycle and suffered injuries. Applicant has arbitrarily and in an exaggerated manner estimated the compensation amount. On the date of accident, the tractor and trolley were insured by non-applicant No.3 insurance company, in such a situation the liability, if any, of payment of compensation amount would be on non-applicant No.3 insurance company.

5. Respondent No. 3/ Non-applicant No. 3/ Insurance Company also filed its reply, denying all the adverse pleadings made in the application. Accident with the tractor-trolley due to rash and negligent driving of non-applicant no.1 was also denied. Income of ₹ 6,000/- per month and incurring of medical expenses on the applicant's treatment are denied. The accident occurred due to collision between two vehicles and therefore owner, driver and insurer of the motor cycle number CG-05E-1340 are necessary parties. In absence of which the case is not maintainable. It is also pleaded that on the date of accident, driver of the tractor-trolley did not possess valid and effective driving license, there was no permit, and hence, there was breach of conditions of insurance policy.
6. Learned Claims Tribunal, upon appreciation of pleadings and evidence placed on record by respective parties, held that appellant suffered grievous injuries due to accident arising out of rash and negligent driving of tractor-trolley by non-applicant 1. Breach of conditions of insurance policy, contributory negligence and non-joinder of parties were not found to be proved, calculated the amount of compensation and awarded ₹ 48,879/- as total compensation with interest @ 9% p.a. from the date of filing of claim application.

7. Learned counsel for appellant would submit that learned Claims Tribunal erred in awarding meagre sum of compensation in the facts of the case, overlooking the nature of injuries suffered by the appellant-claimant. Not awarded any amount of compensation towards permanent disability suffered by appellant. He next contended that the Claims Tribunal has not awarded any amount of compensation towards loss of income during period of treatment, appellant being a lady could not have worked for a period of four months due to fracture injury on her leg. The amount of compensation awarded for mental pain and agony is on lower side. Hence, the amount of compensation be suitably enhanced.
8. Learned counsel for Respondent No. 3 vehemently opposes the submission of learned counsel for appellant and would submit that the learned Claims Tribunal has assigned reasons for not awarding any amount towards permanent disability as no documentary evidence has been produced in this regard. He submits that the Claims Tribunal considering entirety of the facts and circumstance of the case, pleadings made in the application and also evidence, awarded just and proper compensation which does not call for any interference of this Court.
9. I have heard learned counsel for the respective parties and also perused the record.
10. Perusal of impugned award would show that the Claims Tribunal considering the documentary evidence with respect to treatment from Rajdhani Super Specialty Hospital, Raipur, the amount mentioned in Ext.P-38 of ₹ 10,300/- and in Ext. P-20, P-28 & P-32 of total ₹ 500/- has awarded sum of ₹ 10,800/- towards medical expenses. Tribunal further considering the documents Ext. P-12 to 15, P-17, P-18, P-21 to 26, P-30, P-31, P-36, P-39 to P-53 has computed the amount towards purchase of medicines and awarded ₹ 19,079/- which appears to be just and reasonable, hence, it does not call for

any interference. Claims Tribunal has assessed the income of appellant as ₹ 6,000/- per month based on the pleadings made in the application and the statement of injured appellant. However, no amount of compensation is awarded for the laid down period during treatment, only on the ground that the appellant has not made any statement in her court statement/ evidence with respect to doing labourer work and her earning.

11. Even if no specific statement is made by the appellant in her evidence before the Court, however, in the pleadings there is specific mention that she was earning ₹ 6,000/- per month from doing labourer work. Apart from the aforementioned facts, appellant is a major lady aged about 45 years, and she may be working for the financial help of the family, in alternate being homemaker also they work from early morning till late night serving their family members and therefore in the opinion of this Court, Tribunal erred in not awarding any amount of compensation towards loss of earning during laid down period.
12. For the forgoing discussion as also pleadings made in the application with respect to income of appellant and looking to nature of injuries suffered by her, I find it appropriate to award ₹ 12,000/- (₹ 6000x2) as compensation for loss of income during laid down period of 02 months. It is ordered accordingly. Learned Claims Tribunal has awarded only ₹ 5,000/- towards mental pain and suffering. Appellant suffered fracture injuries over her leg along with other injuries and therefore in the opinion of this Court the amount appears to be lower side, it is enhanced to ₹ 10,000/-. Claims Tribunal has not awarded any amount of compensation towards special diet, as the appellant suffered injuries over her person including fracture injury over her leg, therefore, it would be appropriate to award ₹ 5,000/- towards special diet. Award of ₹ 10,000/- towards conveyance expenses has been rightly ordered

by the Claims Tribunal taking note of the fact that the appellant is resident of Dhamtari and she took treatment at Raipur.

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

Particulars	Amount of compensation
Medical Expenses	₹ 10,800/-
Purchase of medicines	₹ 19,079/-
Mental Pain and Suffering	₹ 10,000/-
Loss of income for laid down period of two months	₹ 12,000/- (₹ 6000x2)
Conveyance Expenses	₹ 10,000/-
Special Diet	₹ 5,000/-
<b>Total</b>	<b>₹ 66,879/-</b>

14. Now the appellant-claimant shall be entitled for total sum of compensation of **₹ 66,879/-** instead of ₹ 44,879/- as awarded by learned Claims Tribunal. The amount of compensation shall carry simple interest @ 9% p.a. from the date of filing of claim application till its realization. Any amount paid to the appellant pursuant to the impugned award shall be adjusted from the amount of compensation as calculated above. Other conditions of the impugned award shall remain intact.
15. 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