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HIGH COURT OF CHHATTISGARH, BILASPUR**M. A. No. 1228 OF 1998**

Bhaiya Lal Satnami, Aged about 25 years S/o Sarju Satnami, Occupation Coolie, R/o Beergaon, Police Station Khamtarai, Tahsil and District Raipur (MP)

---- Appellant**Versus**

1. Khorbahara Dewangan S/o Jivrakhan Dewangan Occupation Truck Driver, R/o W.R.S. Colony, Khamtarai Tahsil and District Raipur (MP)
2. Moti Lal S/o Dwarika Das Occupation Truck Owner R/o Fafadih, Raipur Tahsil & District Raipur (MP).
3. The United India Insurance Company Limited, Through Divisional Manager, Divisional Office, Kachhari Chowk, Jail Road, Raipur Tahsil & District, Raipur (MP).

-----Respondents

For Appellant	:	Mr. A.L. Singroul and Mr. R.K. Pali, Advocate
For Respondent No. 3	:	Mr. Dashrath Gupta, Advocate

Hon'ble Shri Sanjay Agrawal, J.**Order on Board****04/11/2016**

1. This is claimant's appeal for enhancement of the amount of compensation as awarded by the Claims Tribunal vide its order impugned dated 28/02/98 passed in Claim Case No. 64/97.
2. Brief facts of the case are that on account of accident occurred on 15/11/89 when the claimant/labourer was coming with the truck bearing its registration No. M.P.R. 3255, which was driven by respondent No. 1-Korbahara Dewangan, owned by respondent No. 2-Moti Lal and insured by respondent No. 3-United India Insurance Company Limited.

3. It is submitted further in the claim petition that the alleged accident has been occurred because of rash and negligent driving of its driver and because of said accident his right hip has been fractured and was admitted into hospital from 15/11/89 to 16/12/89.

4. It is pleaded further that he used to earn Rs. 20/- per day and because of the permanent disability which he sustained because of the said accident he is entitled to compensation to the tune of Rs. 1,33,000/-.

5. Respondents No. 1 & 2, driver and owner of the vehicle in question were treated *exparte* and the respondent No. 3-Insurance Company, had contested the claim on the ground that vehicle in question was being driven in violation of the insurance policy and, therefore, he is not liable to indemnify the insured.

6. Upon due consideration of the respective parties, the Claims Tribunal by its award impugned dated 28/02/98 has come to the conclusion that the alleged accident has been occurred because of rash and negligent driving of its driver and held further that the Insurance Company has failed to establish the fact that vehicle in question was being driven in violation of its policy for want of any evidence adduced in this regard and accordingly, while fastening liability upon Insurance Company, the Claims Tribunal has awarded total sum of Rs. 25,000/- with 12% interest per annum from the date of its claim petition till its realization to the claimant.

7. Learned counsel for the appellant submits that the award as passed by the Claims Tribunal is extremely in lower side, particularly, when he sustained permanent disability to the extent of 20%, therefore, the amount awarded by the Claims Tribunal deserves to be enhanced. He further submits that the Claims Tribunal has awarded an amount of Rs. 1,000/- towards physical and mental

agony is not sufficient, particularly, when he was admitted into hospital for a period of one month.

8. Learned counsel for the respondent No. 3 submits that the amount of compensation awarded by the Claims Tribunal is just and proper and it does not require to be interfered.

9. I have heard learned counsel for the parties and perused the entire record carefully.

10. As far as the amount as awarded by the Claims Tribunal with regard to the physical and mental agony is concerned, the same is not sufficient in view of this Court because the claimant was not only suffered permanent disability to the extent of 20% but was admitted into the hospital for a period of one month and, therefore, the amount of Rs. 1,000/- as awarded by the Claims Tribunal towards physical and mental agony deserves to be enhanced to the extent of Rs. 10,000/-. The compensation as awarded by the Claims Tribunal in other heads are not required to be interfered.

11. Accordingly, the appeal is allowed in part by enhancing the amount of compensation to the tune of Rs. 10,000/-. This enhanced amount i.e. Rs. 9,000/- (Rs. 10,000/- - Rs. 1,000/- = Rs. 9,000/-) will carry interest at the rate of 6% per annum from the date of claim petition i.e. 20/01/90 till its realization. No order as to costs.

Sd/-
(Sanjay Agrawal)
Judge