

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 1289 of 2016**

- Smt. Shomiyo W/o Anil, Aged About 23 Years R/o- Fauzi Gali, Shivnandanpur, Police Station- Bishrampur, Tahsil- Surajpur, District- Surguja, (Now Surajpur), (Chhattisgarh),.....(Claimant).

---- Appellant**Versus**

1. Vishnu Kumar Dwivedi S/o Kameshwar Dwivedi, Aged About 23 Years R/o- Karaul, Police Station- Jiyaval, District- Sidhi, (M.P.), Present R/o- M.K.C.C. Transport Company Bishrampur, Police Station- Bishrampur, District- Surguja, (Now Surajpur), (Chhattisgarh),.....(Driver Of Offending Vehicle Jeep Bearing Registration M.P. 27-W-0070).
2. The United India Insurance Company Limited, Through Branch Manager, Ambikapur, Address- Ram Mandir Road, Ambikapur, District- Surguja, (Chhattisgarh),.....(Insurer Of Offending Vehicle Jeep Bearing Registration M.P. 27-W-0070).
3. Maa Karani Coal Construction, Through Shri Harvind Vishwakarma, S/o Samashray Vishwakarma, Aged About 35 Years, R/o- Shivnandanpur, Police Station- Bishrampur, Tahsil- Surajpur, District- Surguja, (Now Surajpur), (Chhattisgarh),.....(Driver Of Offending Vehicle Jeep Bearing Registration M.P. 27-W-0070)

---- Respondents

For Appellant

Shri T. R. Chandrakar, Advocate

SB: Hon'ble Shri Justice P.Sam Koshy**Order On Board****29/09/2016**

1. The present appeal has been preferred by the appellant seeking for the enhancement of the compensation amount awarded by the 3rd Additional Motor Accident Claims Tribunal, Surajpur district Surajpur. against the claim case No. 144/2011 dated 29.02.2016.

2. Relevant facts in brief for adjudication of the present appeal is that the claim in the instant case filed by the claimant applicant under Section 166 of the Motor Vehicle Act claiming for compensation of Rs. 5 lakhs from the respondents. According to the claimant he met with an accident on 27.06.2015 at 07:45 pm while she was going towards Ambikapur from her house sitting back on the motorcycle. According to the claimant the motorcycle was dashed by the offending vehicle a jeep bearing registration No. MP 27 W 0070 which came from the back in a rash and negligent manner being driven by Respondent No. 1 and owned by Respondent No.3 and was insured with Respondent No. 2. Thereby the Court below after considering the evidence which were adduced by the parties vide its impugned order dated 29.02.2016 awarded an amount of compensation of Rs. 46,734/- to be paid by the Respondent No.1 and Respondent No.3. The vehicle was not insured with the Insurance company Respondent No. 2 at that relevant period of time. It was also ordered to pay interest @ 9% per annum from the date on which the applicant moved application before the Court below i.e. with effect from 19.02.2008 onwards.
3. Learned Counsel for the Appellant assailing the said order submits that the impugned order is bad in law to the extent that the amount of compensation is on the lower side and ought to have been more than what has been awarded. He submits that it is the case where there were two fractures of bone received on the injured. In addition, there were other injuries also on the body of the injured person and therefore the Tribunal ought to have given more compensation.

4. However, taking into consideration the award by the Tribunal and a perusal of the contents of award what is also reflected from the record that the applicant has not been able to support her disability part by providing any disability certificate before the Tribunal.
5. In the absence of disability certificate the quantum could not have been raised more than what has been awarded by the Tribunal. A further perusal of the award would reflect that so far as the expenses which have been incurred by the Appellant in the course of the treatment and for which she has submitted the bills and other receipts the Tribunal has rightly assessed same and have partly allowed the claim. In addition, Tribunal has also allowed the compensation of Rs. 25000/- for the injuries sustained and considering all the necessary parameters thereby reached to the conclusion that the claimant shall be entitled for the compensation of Rs. 46,734/- rupees. This Court on due consideration of the award and also upon hearing the Counsel for the appellant, does not find any scope of further enhancement of the compensation as the tribunal has considered all these aspects while considering the compensation payable to the Petitioner. In addition, there is no medical evidence produced by the claimant to justify the disability, if any.
6. Accordingly, the present Appeal being devoid of merits, same deserves to be and is rejected.

Sd/-
(P. Sam Koshy)
JUDGE