

**NAFR**

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**MAC No. 1270 of 2015**

Jeewan Lal Nahta S/o Shri Rawalmal Nahta, Aged About 60 Years R/o Purani Bastipara Nagari, Thana & Tahsil - Nagari, Civil & Revenue District - Dhamtari (Chhattisgarh)

**---- Petitioner**

**Versus**

1. Mordhwaj Thakur S/o Shivdyal Thakur, Aged About 28 Years Occupation - Driver, R/o Village - Rajoli, Thana - Ranchirai, Tahsil - Gunderdehi, Civil & Revenue District Durg (Chhattisgarh).....(Driver Of The Vehicle No. C G 04 Z C 2433)
2. Smt. Shayar Bai W/o Shri Bhikham Chand, Aged About 55 Years R/o Village & Post Kalangpur, Thana & Tahsil - Gunderdehi, Civil & Revenue District Balod (Chhattisgarh).....(Owner Of The Vehicle No. C G 04 Z C 2433)
3. Divisional Manager, New India Insurance Company Limited, Office Mobil Mahal, Jail Road, Raipur Tahsil - Raipur, Civil & Revenue District Raipur (Chhattisgarh).....(Insurer Of The Vehicle No C G 04 Z C 2433)
4. Harshit S/o Banshilal Sahu, Aged About 30 Years R/o Village Sankra, Thana & Tahsil Nagri, Civil & Revenue District Dhamtari (Chhattisgarh)
5. Dulesh Kumar S/o Amrit Lal Sahu, R/o Village Sankra, Thana & Tahsil Nagri, Civil & Revenue District Dhamtari (Chhattisgarh)
6. Divisional Manager, The Oriental Insurance Company Ltd. M. B. Trade Bajar Chowk, Dhamtari, District Dhamtari (Chhattisgarh)

**---- Respondents**

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Shri Sumit Shrivastava, counsel for the appellant/s.  
Shri H.P.Agrawal, counsel for respondent No.3.  
Shri Deepak Gupta, counsel for respondent No.6.  
None for other respondents.

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**Hon'ble Shri Justice Manindra Mohan Shrivastava**

**Order On Board**

**22/04/2016**

With the consent of the parties, the matter is heard finally.

This is an appeal for enhancement of amount of compensation in a road

accident resulting in injury.

In an unfortunate accident which happened on 03/08/2013, the appellant, while going in a jeep, met with an accident with another vehicle. As a result of accident, the appellant suffered fracture in his left leg.

2. Learned counsel for the appellant submits that the Claims Tribunal awarded only Rs.56,500/- along with interest from 07/11/2013 till the date of payment. The appellant was awarded inadequate compensation towards pain and suffering, healthy diet. Moreover, the income has also not been properly assessed and as against claim of monthly earning of Rs.25,000/-, the Tribunal has only awarded Rs.3,000/-.

3. On the other hand, learned counsel for the respondent submitted that compensation awarded by the Tribunal is just and proper.

4. In para 16 of the order, the Tribunal has considered the income aspect and taking into consideration that no clinching and reliable documentary evidence of per month earning of Rs.25,000/- was produced, Tribunal has assumed notional income of Rs.3,000/- which does not warrant any interference. However, I find that present is a case where due to accident, the appellant sustained fracture injury in his leg. He is said to be aged 60 years. He suffered multiple fracture and by operation, rods were also implanted. He had also suffered shock due to accident. The fact that the appellant suffered fracture injury and remained admitted in the hospital, has not been disputed.

5. Considering the nature of injury suffered by the appellant, medical papers on record, pain and sufferings, age of the appellant and that rod was also implanted, compensation on these aspects were not properly assessed which requires consideration. As against pain and sufferings, healthy diet etc., the appellant is entitled to Rs.25,000/- which appears to be just and fair.

Considering that the rod is implanted in his leg and the appellant being an old man, likelihood of future medical expenses cannot be ruled out. Therefore, towards that, further amount of Rs.20,000/- ought to be awarded.

6. In view of above consideration, an additional sum of Rs.45,000/- over and above Rs.56,500/- already awarded, shall be payable to the appellant along with interest from 07/11/2013 till the date of payment at the same rate as

provided under the award.

7. The appeal is accordingly partly allowed to the extent indicated as above.

**Sd/-**

**(Manindra Mohan Shrivastava)**  
**Judge**

Deepti