

HIGH COURT OF CHHATTISGARH AT BILASPURMAC No.846 of 2009

Shailendra S/o S.K.David, aged about 26 years, R/o Kanker Forest Naka, District North Bastar Kanker (C.G.).

---Appellant

Versus

1. Anantram Yadav S/o Gambhirnath Yadav, aged about 45 years, R/o Village Chhindbahar, Presently residing at Ramaiya Para, Jagdalpur, District Bastar (C.G.).
2. The Director, Agriculture Department, Raipur, District Raipur (C.G.).
3. The State of Chhattisgarh, through the Collector, District Bastar (C.G.).

---Respondents

For appellant	:	Shri M.K.Bhaduri, Advocate.
For respondent No.3/State	:	Ms.M.Asha, Panel Lawyer.

Hon'ble Shri Justice P. Sam KoshyOrder on Board

05/12/2017

1. Present is an appeal by the claimant under Section 173 (2) of the Motor Vehicle Act assailing the award dated 04/03/2009 passed by the learned Motor Accident Claims Tribunal, Kanker, District North Bastar (C.G.) in Motor Accident Claim Case No.69/2008.
2. Vide the said impugned award, the Tribunal in an injury case under Section 166 of the Motor Vehicle Act has awarded a compensation of Rs.28,850/- with interest @ 6% per annum from the date of application.
3. The counsel for the appellant referring to the pleadings and record submits that, the nature of injury has put the claimant to a stage where he would not be in a position to drive the Truck again. He further referred to the

evidence of AW/2-Dr.Vijay Shukla who had treated the claimant and have also produced disability certificate to substantiate his contention. He further submits that, the Tribunal has not assessed the compensation properly in as much as loss of earning capacity, loss of future income and all that have not been looked into by the Tribunal while quantifying the compensation. It was also the contention that, the compensation paid under the other heads also were unreasonably low and prayed for suitable enhancement of the award.

4. The State counsel however opposing the appeal submits that, the Tribunal had taken into consideration the entire facts and circumstances of the case and also the evidence which have been adduced and have reached to the conclusion and as such the award is just and reasonable and does not warrant any interference.

5. Considering the facts and circumstances of the case, particularly, taking note of the evidence of Dr.Vijay Shukla wherein he has categorically stated that, on account of the injury which the injured has suffered that of the fracture of the right scapula bone and also the fracture of the thigh bone of the appellant, the movement of right leg of the appellant has got restricted considerably. The Doctor has also opined that the appellant herein would not be able to squat and there is stiffness of right knee which was also restricts his movements and as such he would find it difficult to drive the Truck for a considerable period of time and which could only be removed by another operation to be conducted.

6. Given the aforesaid factual matrix of the case this Court is of the opinion that ends of justice would meet if the appellant is awarded an additional compensation of Rs.50,000/- in addition to what has already been awarded by the Tribunal. It is ordered accordingly that the claimant shall be entitled for the total compensation of Rs.78,850/- instead of Rs.28,850/- as awarded by the Tribunal. The said enhanced amount shall also carry interest at the same rate as has been awarded by the Tribunal.

7. The appeal stands allowed and disposed off.

Sumit

Sd/-
(P. Sam Koshy)
JUDGE