

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MISC. APPEAL NO. 638 OF 2002

Bhagirathi, S/o Sunder Dheemar, age 55 years, Village- Godi, Police Station- Mandir Hasaud, Tahsil and District Raipur (C.G.)

... Appellant

Versus

1. Dinesh Kumar Chandrakar, S/o Shyam Lal Chandrakar, age 31 years, R/o Village- Bhansoj, Tahsil Aarang, District Raipur (C.G.)

2. Abdul Salam, S/o Abdul Shafiq, age 36 years, R/o Nawab Manjil, Moudahapara, Raipur, Tahsil and District Raipur (C.G.)

... Respondents

For Appellant	:	None appears.
For Respondents	:	None appears.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

24/07/2017

1. The present is a claimant's appeal seeking enhancement of compensation awarded by the Second Additional Motor Accident Claims Tribunal, Raipur, on 15.3.2002 in Claim Case No. 67 of 2001.

2. Considering the fact that the appeal is of the year 2002 that is more than 15 years old and as there is no representation on behalf of the Appellant as well as the Respondents, this Court thought it fit to dispose of the present appeal taking the assistance of Shri Raj Awasthi, Advocate.

3. Brief facts of the case are that the appellant-claimant met with an accident on 16.6.2000 when he was travelling in a Mini Bus bearing Registration No. MP23-B/7505 owned by the Respondents. The said vehicle was not insured. While travelling in the said Mini Bus, the driver of the said Mini Bus lost his control over the vehicle which fell down in a ditch, resulting in injuries to the passengers travelling in the said vehicle. The appellant-claimant also received injuries inasmuch as his right clavicle bone got fractured and he had to be hospitalized. He thereafter filed a claim application under Section 166 of the Motor Vehicles Act before the

Claims Tribunal and the Claims Tribunal after considering the evidence which have come on record, vide award dated 15.3.2002, awarded an amount of Rs.50,200/- in favour of the appellant-claimant. Of the said awarded amount, Rs.43,200/- was awarded towards loss of income and disability and an amount of Rs.5000/- was awarded towards future expenses and Rs.2000/- towards loss of income during the treatment period. It is this award which has been subjected to challenge in the present appeal.

4. Shri Raj Awasthi, learned Counsel, while assisting the Court took through the evidence which have come on record, pointed out that so far as the injury part is concerned there is no dispute, rather is an admitted fact. The injury has been proved and established by PW-4, Dr. A.A. Saifi, who has given the disability to the appellant-claimant to the tune of 25%. Exhibit P-10 is the disability certificate. Shri Awasthi, further took the Court through the finding in paragraph 13 of the impugned award, where the Claims Tribunal has categorically held that the appellant has not been able to produce medical bills in respect of expenses incurred. The nature of injury sustained also appears to be the fracture of the right clavicle bone on account of which the appellant was not able to raise his hand beyond a particular level.

5. Taking into consideration the entire factual matrix of the case, keeping in view the evidence of the Doctor and also the nature of injury sustained, this Court is of the opinion that ends of justice would meet if the appellant is ordered to be paid an additional amount of Rs.25,000/- in addition to what has been awarded by the Claims Tribunal as compensation for the mental agony, pain and suffering and other incidental expenses which the appellant must have incurred subsequent to the accident.

6. Accordingly, it is ordered that the appellant shall be entitled to get Rs.75,200/- as the total compensation. Thus, Respondents shall pay an additional amount of Rs.25,000/- to the appellant in addition to what has already been awarded by the Claims Tribunal. The enhanced amount shall also carry the interest at the same rate as has been awarded by the Claims Tribunal.

7. Registry of this Court is directed to send a copy of this order at the address of the appellant as well as the respondents, as is reflected in the cause title.

8. This Court renders a word of appreciation to Shri Raj Awasthi, Advocate, in rendering his assistance to this Court.

9. Resultantly, the appeal is allowed and the impugned judgement stands modified in terms mentioned herein above. Rest of the award and the conditions enumerated in the impugned award shall remain intact.

Sd/-
(P. Sam Koshy)
Judge