

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Misc. Appeal (C) No. 1231 of 2008**

Rajendra Ram S/o late Tulsi Ram, Permanent R/o new Dola Ramnagar,
District Anuppur, MP, Presently resided at Village Lingiyadih, Bilaspur,
District Bilaspur(CG)

---- Appellant**Versus**

1. Smt. Shalkunwar, widow of late Banas Singh R/o village Dola, Chowki Ramnagar, Tah. Kotma, Distt. Anuppur (MP) (owner of Hero Honda Passion No. M.P. 18E 9404.
2. The New India Assurance Co. Ltd. Divisional Office, Budhar Road, Shahdol, MP through Branch Manager, New India Assurance Co. Ltd. Bilaspur (CG) Insurer of Hero Honda Passion No. MP 18E 9404

---- Respondents

For Appellant	:	Shri Vivek Shrivastava, Advocate
For Respondent no. 2	:	Shri Deepak Gupta, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****07/11/2017**

Present is an appeal under Section 173 of the Motor Vehicles Act assailing the award dated 08.01.2008 passed by the 9th Additional Motor Accident Claims Tribunal (FTC), Bilaspur (CG) in Claim Case No. 117 of 2005. Vide the impugned award, the Tribunal in an injury case under Section 163A of MV Act has awarded a compensation of Rs.25,000/- with interest @ 6% per annum from the date of application.

2. Counsel for the appellant submits that the amount of compensation awarded is too meagre an amount considering the fact that the claimant had received grievous fracture injury on his right leg and that Dr. S. S. Bhatia AW-

2 has also been examined before the Court below who has issued a certificate showing the disability at 50%.

3. This Court on perusal of the record particularly the statement of Dr. S. S. Bhatia finds that though there is a disability certificate of 50% but there is no mentioning as to whether the disability is partial, permanent or temporary and that there is no finding of any shortening of leg because of the injury neither is there any statement of the doctor by which it has been said that the nature of injury made the claimant permanently disabled.

4. In the given factual matrix of the case, this Court is of the opinion that since the accident is admitted and the injury sustained has been proved and established by the doctor concerned, ends of justice would meet if the appeal is allowed by granting a lump sum compensation of Rs.25,000/- in addition to what has already been awarded by the Tribunal. It is ordered accordingly. Thus, the claimant shall be entitled for a total compensation of Rs.50,000/- in stead of Rs.25,000/- as awarded by the Tribunal. The enhanced amount shall also carry interest at the same rate as fixed by the Tribunal.

5. So far as the finding of the Tribunal of exonerating the Insurance Company is concerned, the same is ordered to remain intact. The responsibility of payment of compensation shall be upon the respondent no.1 the owner of the motorcycle as has been held by the Tribunal.

6. The appeal thus stands allowed and disposed of.

Sd/-
(P. Sam Koshy)
JUDGE