

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MISC. APPEAL (C) NO. 735 OF 2010

Ganesh Sahu, S/o Mukand Lal Sahu, age about 21 yeas, R/o Village Khursuli, Police Station Arjunda, District Durg (C.G.)

... Appellant

versus

1. Narendra, S/o Nankuram, age about 27 years, R/o Village Diwan Jhitiya, Tahsil Dongargaon, District Rajnandgaon (C.G.)
2. Nanku Ram, S/o Late Tularam Sahu, R/o Village Diwan Jhitiya, Tehsil Dongargaon, District Rajnandgaon (C.G.)
3. Divisional Manager, The New India Insurance Company Limited, through Branch Manager, New India Insurance Company Limited, Parakh Bhawan, Station Road, Durg (C.G.)

... Respondents

For Appellant	:	Mrs. Renu Kochar, Advocate.
For Respondents No.1 & 2:	:	Mr. Shobhit Koshta, Advocate, under instructions of Mr. Vishnu Koshta, Advocate.
For Respondent No.3	:	Mr. Pankaj Agrawal, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

29/11/2017

1. The present is a claimant's appeal under Section 173 of the Motor Vehicles Act, 1988, seeking enhancement of the compensation awarded by the Additional Motor Accident Claims Tribunal (F.T.C.), Rajnandgaon, vide award dated 29.3.2010 passed in Claim Case No.14/2009.
2. Vide the impugned award, the learned Tribunal, in an injury case, under Section 166 of the Motor Vehicles Act, has awarded a compensation of Rs.83,811/- to the injured-claimant with interest thereon at the rate of 8% per annum.
3. Learned counsel for the appellant-claimant submits that it is a case where the claimant had sustained injury on the right thigh which had to be operated upon and a steel plate/rod had to be inserted for healing up of the fracture. She further submits that the claimant has been subjected to a great amount of pain and suffering and also had to take treatment for a considerable long period of time and the he was also hospitalized at the Sector-9 hospital at Bhilai Steel Plant where a considerable amount had

been spent towards medical expenses. She also submits that a doctor has also been examined in the instant case, who has certified that the claimant has suffered the disability at 40% by virtue of the injury sustained from the accident. She thus prayed for the compensation to be suitably enhanced.

4. Learned counsel for respondent no.3-insurance company however opposing the appeal submits that it is a case where the award passed by the learned Tribunal is fair and reasonable and that the amount of compensation awarded is justified also taking into consideration the fact that it is only the fracture injury which the claimant has sustained and thus prayed for the rejection of the appeal.

5. Heard the submissions put forth on either side and perused the record of the case.

6. Considering the entire facts and circumstances of the case and taking note of the nature of injury sustained and the evidence of the doctor certifying the disability at 40%, this Court is of the opinion that ends of justice would meet if the claimant is awarded a lump sum compensation of Rs.1,25,000/- in addition to Rs.83,811/- which has already been awarded by the learned Tribunal. Thus, the total compensation payable to the claimant would become Rs.2,08,811/- which is being rounded off at Rs.2,10,000/-.

7. It is accordingly ordered that the appellant-claimant shall be entitled for a total compensation of Rs.2,10,000/-. The enhanced amount shall carry interest at the rate of 6% per annum from the date of presentation of the claim application.

8. As a result, the appeal is allowed and the impugned award stands modified to the above extent only.

Sd/-
(P. Sam Koshy)
Judge