

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**MAC No. 633 of 2007**

Dharam Singh, S/o. Pyara Singh, Aged about 35 years, R/o. Khursipar, Balaji Naar, Khursipar, Police Station Khursipar, Chowki (Chhaoni) Bhilai, Tahsil and District Durg, Chhattisgarh

---- Appellant**Versus**

1. Anupam Das, S/o. Hira Das Gandharva, Aged about 45 years, R/o. Polsaipara, Near Bajrang Mandir, Durg, Police Station and District Durg Chhattisgarh (Driver)
2. Mohammed Firoz S/o. Abdul Sattar, R/o. Takiapara, Durg, District Durg Chhattisgarh, Office Reliance Tour and Travels, New Bus Stand, Durg Chhattisgarh (Owner)
3. Oriental Insurance Company Limited, Durg, District Durg, Chhattisgarh (Insurer)

----Respondents

For Appellant	:	Mr. Vivek Tripathi, Advocate
For Insurance Company	:	Mr. Sudhir Agrawal, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order on Board****13/11/2017**

1. Present is an appeal under Section 173 of the Motor Vehicles Act assailing the award dated 27.01.2007, passed by the 10th Additional Motor Accident Claims Tribunal (FTC), Durg, Chhattisgarh, in Claim Case No. 234/2005.
2. Vide the impugned award, the Tribunal in an injury case under Section 166 of the Motor Vehicles Act, has awarded a compensation of Rs.2,21,771/- with interest @ 6% per annum.
3. The Tribunal while passing the award has ordered for payment of compensation by the Insurance Company with the liberty to recover the same from the Owner cum Driver as at the time of accident the

Driver did not have a license. The appeal of the Owner as well as the Insurance Company already has been dismissed by this Court vide order dated 14.07.2017 in MAC Nos. 173/2008 & 626/2007.

4. The counsel for the appellant seeking enhancement of the compensation referred to the nature of the injuries in the instant case and submitted that since the appellant was a Driver and that because of the injury he has lost much strength on his leg and therefore he is not able to discharge the duties of a Driver and hence the compensation should have been calculated taking the disability at 100% and prayed for the award to be suitably enhanced.
5. The counsel for the Insurance Company however opposing the appeal submits that the treating Doctor in the instant case has not been examined. Further, the Doctor, who has given a statement, states the appellant to be suffering from disability of only 34% and the compensation has been accordingly calculated assessing the disability at 34% and thus the award being just and reasonable, the same does not warrant any interference.
6. Having considered the contentions put forth on either side and on perusal of record, this Court is of the opinion that undoubtedly, he was working as a Driver and that he has received grievous injuries on his right leg in as much as the Tibia bone of his right leg was fractured, so also the posterior ligament also has sustained fracture. The appellant in the instant case has also undergone considerable treatment for his cure and was also hospitalized for a pretty long time.

7. Considering the entire facts and circumstances of the case, this Court is of the opinion that ends of justice would meet if the claimant is awarded a lump sum compensation of Rs.1,00,000/- in addition to what has already been awarded by the Tribunal. The liability of payment of compensation shall be again upon the Insurance Company with a liberty to recover the same from the Owner and Driver.
8. The said enhanced amount shall also carry interest at the same rate as has been awarded by the Tribunal.
9. The appeal stands allowed and disposed of.

Sd/-
(P. Sam Koshy)
Judge

Ved