

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**MAC No. 39 of 2007**

Smt. Bimla Bai Sahu, W/o. Lachhan Ram Sahu, aged about 45 years, R/o. Village Kalartaria, Post Kharenga, Tahsil and District Dhamtari, Chhattisgarh

---- Appellant**Versus**

1. Janaklal, S/o. Parasram Pandey, aged about 32 years, R/o. Santosh Nagar, Tikrapara, Tahsil and District Raipur, Chhattisgarh
2. Chotelal, S/o. D.N. Singh, R/o. Pachkhedi Naka, R/o. Laxminagar, Raipur, Tahsil and District Raipur, Chhattisgarh
3. Insurance Company, The New India Insurance Company Limited, Bajrang Market, G.E. Road, Raipur, Tahsil and District Raipur, Chhattisgarh

----Respondents

For Appellant	:	Smt. Indira Tripathi, Advocate
For Respondent No.3	:	Ms. Chitra Shrivastava, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order on Board****15/09/2017**

1. Present is an appeal under Section 173 of the Motor Vehicles Act assailing the award dated 12.12.2006, passed by the Additional Motor Accident Claims Tribunal, Dhamtari, Chhattisgarh, in Motor Accident Claim Case No.177/2006.
2. The counsel for the appellant submits that the Tribunal in the instant case has granted only Rs.3,000/- as compensation of which Rs.2,000/- is towards medical expenses and Rs.1,000/- is towards pain and sufferings. She submits that it is a case, where the appellant has sustained fracture of her right leg and that she has sustained 35% of permanent disability. She further submits that this disability part has been proved by the AW/2-Doctor Ekbal Parvej, who had treated, thus prayed for the amount for compensation to be suitably enhanced.
3. The counsel for the Insurance Company however opposing the appeal submits that the disability certificate is not from the

competent medical board and that it is issued by private Doctor who is said to have only treated the appellant, which may not be sufficient to be accepted as proper disability certificate. She further submits that in absence of any proper disability certificate the amount of compensation awarded by the Tribunal is just and reasonable and the appeal thus deserves to be rejected.

4. Having considered the contentions put forth on either side what is undisputed is the accident that occurred on 13.03.2005 and the resultant injury which the appellant sustained. The injury which is said to have been suffered by the appellant is a fracture on her right leg to which AW/2-Doctor Ekbal Parvej had treated.
5. Another aspect, which cannot brush aside, is the fact that the appellant has not gotten the disability certificate from the District Medical Board, which is the competent authority for issuance of the disability certificate. The disability certificate in the instant case is only by treating Doctor and that is to the extent of the disability on the right leg of the appellant. With the given facts and circumstances, this Court has no hesitation in reaching to the conclusion that the nature of the injuries, which the appellant has sustained must have definitely brought some elements of functional disability which perhaps has been lost sight of by the Tribunal while quantifying the compensation which may not be to the extent of the disability shown in the disability certificate.
6. In the given facts and circumstances of the case, this Court is of the opinion that ends of justice would meet, if the lump sum compensation of Rs.30,000/- in addition to what has already been awarded by the Tribunal is paid to the appellant, would meet the ends of justice. The said enhanced amount of Rs.30,000/- shall also carry interest at the same rate as has been fixed by the Tribunal in the impugned award.
7. The appeal thus stands allowed and disposed of.

Sd/-
(P. Sam Koshy)
Judge