

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 1191 of 2017

Branch Manager, The Oriental Insurance Company Limited, Branch Office, Bhatapara, Chhattisgarh.

---- Appellant

Versus

1. Rameshwar Prasad @ Lalji S/o Shivprasad Panika Aged About 35 Years R/o Village Pipra, Police Station Patna, Tahsil Baikunthpur, District Korea, Chhattisgarh.
2. Manager, S M S Infrastructure Limited, Rani Atari Sindurgarh, Chirmiri Area, District Korba, Chhattisgarh.
3. Anil Verma S/o Gorelal Verma, Aged About 64 Years R/o 64 Dafai Korea Colliery, Police Station Chirmiri, District Korea, Chhattisgarh.

---Respondents

For Appellant	:	Mr. Raj Awasthy, Advocate
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Hon'ble Shri Justice P. Sam Koshy

Order on Board

28/08/2017

1. The present is an appeal by the Insurance Company under Section 173 of Motor Vehicle Act, assailing the award dated 12.05.2017, passed by the Additional Motor Accident Claims Tribunal (FTC), Baikunthpur, Korea (CG), in Motor Accident Claim Case No. 02/2015.
2. The appeal is barred by 8 days and there is an application for condonation of delay also filed by the appellant. The reasons assigned in the said application and finding them to be satisfactory, the I.A. No.1 stands allowed. The delay of 8 days in filing the appeal stands condoned.
3. The challenge in the present appeal is to the award of compensation to the tune of Rs.16,73,800/- by the Additional Motor Accident Claims Tribunal (FTC) Baikunthpur, District Korea (CG). The challenge is by the Insurance Company wherein challenge is to the quantum awarded. The contentions of the counsel for the appellant is that the amount of compensation awarded for the disability is on a higher side.

4. According to the counsel for the appellant, since the appellant has pleaded that as a driver he was earning Rs.6,000/- a month but the same has not been proved and established cogently before the Tribunal. It was further contended that the claimants ought to have led evidence of at least the employer to prove his employment, which he has not done and therefore the evidence of the claimants may not be accepted. It was also the contention of the counsel for the appellant that the Tribunal has assessed the disability of the deceased to be 100% whereas the Doctor has opined that the injuries to be only 48% and therefore also the finding of the Tribunal deserves interference.
5. Having heard the counsel for the appellant and on perusal of the record what is reflected is that the claimants had entered appearance before the Tribunal and had made statement and deposed before the Tribunal that he was working as a driver on the Truck owned by one Ram Niwas Pandey. It was also his contention that as a result of the accident, there was compound fracture on his right leg below the knee and which had to be subjected to couple of surgeries and in spite of the surgeries, the fracture has not been healed properly. Further the Doctor who had assessed the disability has given a finding of the claimants suffering from 48% of permanent disability.
6. At this juncture, it would be pertinent to mention that the Insurance Company as such has not led any evidence to disprove the contentions which have been laid by the claimants. In absence of any evidence on the part of Insurance Company, the findings of the Tribunal cannot be held to be contrary to the evidence or a perverse finding and thus this Court is of the opinion that no strong case for admitting the appeal is made out and the appeal thus stands dismissed.

Sd/-
(P. Sam Koshy)
Judge