

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Misc. Appeal (C) No. 1271 of 2017**

Ishwar Prasad Gupta S/o Munakka Gupta, aged about 30 years, R/o Village Gelhapani, Tahsil Khadgawan, District Koriya, Chhattisgarh. (Claimant)

---- Appellant**Versus**

1. Rahul Ballabh Dwivedi S/o Alok Dwivedi, aged about 24 years, R/o Ward No. 14, Manendragarh, District Koriya, Chhattisgarh. (Non Applicant)
2. Smt. Sushila Dwivedi W/o Alok Dwivedi, aged about 24 years, R/o Ward No. 14, Manendragarh, District Koriya, Chhattisgarh. (Non Applicant)
3. The Oriental Insurance Company Limited, Office at Ambikapur, District Surguja, Chhattisgarh. (Non Applicant)

---- Respondents

For Appellant	:	Shri Rama Kant Pandey, Advocate
For Respondent No.3	:	Smt. Chitra Shrivastava, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****30/10/2017**

Present is a claimant's appeal under Section 173 of the Motor Vehicles Act challenging the award dated 30.11.2016 passed by the 1st Additional Motor Accident Claims Tribunal, Manendragarh, District Koriya (CG) in Motor Accident Claim Case No. 45/2014. Vide the impugned award, the Tribunal in an injury case under Section 166 of the MV Act has awarded compensation of Rs.65,000/- with interest @ 9% per annum.

2. It is this award which is under challenge by the claimant stating that the compensation awarded is on the lower side and the same deserves to be enhanced. Counsel for the appellant submits that the Tribunal has not taken

into consideration the permanent disability which the claimant has sustained while calculating the compensation.

3. Counsel for the Insurance Company, however, opposes the appeal and submits that the Tribunal has taken into account the evidences which have come on record and only based on that the impugned award has been passed which is just and reasonable and does not warrant any interference.

4. Having heard the contentions put forth by the counsel of either side and on perusal of the record what are undisputed facts are that; the accident, the resultant injury sustained by the appellant, the vehicle involved in the accident and the vehicle also duly insured with respondent no.3.

5. So far as the injury part is concerned, the medical evidence which has come on record shows that there was a fracture on the right leg and the doctor who has been examined before the Tribunal had treated the appellant from the date of accident i.e. 07.03.2012 to 10.03.2012. Though there is a certificate of disability of 40% but there does not seem to be any further evidence produced by the appellant to substantiate this contention.

6. Considering the facts and circumstances of the case, this Court is of the opinion that ends of justice would meet if the appellant is awarded an additional compensation of Rs.35,000/- making the total compensation payable to the claimant at Rs.1,00,000/- in stead of Rs.65,000/- as awarded by the Tribunal. It is ordered accordingly. The enhanced amount shall also carry interest at the same rate as has been fixed by the Tribunal. The balance amount of compensation shall be deposited by the Insurance Company within a period of 60 days from today.

7. The present appeal thus stands allowed.

Sd/-
(P. Sam Koshy)
JUDGE