**NAFR**

**HIGH COURT OF CHHATTISGARH AT BILASPUR**

**MAC No. 671 of 2009**

Tuna @ Tuntun Yadav, S/o. Kameshwar Yadav, Aged about 33 years, R/o. Near Dhamda Naka, Tahsil and District Durg, Chhattisgarh

**---- Appellant**

**Versus**

1. Ramesh Kumar S/o. Malaiya Telgu, Aged about 29 years, R/o. Sanjay Nagar, Supela, Bhilai, District Durg, Chhattisgarh
2. Ratnakar Sirmote, S/o. Not known, R/o. Shanti Nagar, Kohka Bhilai, District Durg, Chhattisgarh
3. Oriental Insurance Company Ltd. Branch Office Power House Bhilai, Through: the Divisional Manager, the Oriental Insurance Company Limited, Malviya Nagar, District Durg, Chhattisgarh

**----Respondents**

**MAC No. 1044 of 2008**

The Oriental Insurance Company Ltd. Branch Office Power House Bhilai, Through: the Divisional Manager, the Oriental Insurance Company Limited, Malviya Nagar, District Durg, Chhattisgarh

**---- Appellant**

**Versus**

1. Tuna @ Tuntun Yadav, S/o. Kameshwar Yadav, Aged about 33 years, R/o. Near Dhamda Naka, Tahsil and District Durg, Chhattisgarh
2. Ramesh Kumar S/o. Malaiya Telgu, Aged about 29 years, R/o. Sanjay Nagar, Supela, Bhilai, District Durg, Chhattisgarh
3. Ratnakar Sirmote, S/o. Not known, R/o. Shanti Nagar, Kohka Bhilai, District Durg, Chhattisgarh

**----Respondents**

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| For Claimant | : | Mr. Jitendra Gupta, Advocate |
| For Insurance Company | : | Mr. Sudhir Agrawal, Advocate |

**Hon'ble Shri Justice P. Sam Koshy**

**Order on Board**

**01/11/2017**

1. These are two appeals which are being filed challenging the award dated 05.03.2008, passed by the 7th Additional Motor Accident Claims Tribunal (FTC), Durg, Chhattisgarh, in Claim Case No. 53/2007.

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.1,83,655/- with interest @ 6% per annum from the date of application.

3. MAC No. 671/2009 is an appeal by the Claimant seeking enhancement and MAC No. 1044/2008 is an appeal by the Insurance Company challenging the liability which has been fastened upon the Insurance Company. While fastening the said liability on the Insurance Company, the Tribunal has ordered for pay and recovery directing the Insurance Company to deposit the compensation amount first with a liberty to recover the same from the Owner and Driver.

4. The counsel for the Insurance Company however opposes the claim for enhancement of the compensation on the ground that there is no sufficient material produced by the Claimant to justify the claim for enhancement as the award passed by the Tribunal itself is just and reasonable.

5. The ground for exonerating the Insurance Company was that the driving license which was produced by the Driver of the offending vehicle was found to be defective in as much as the name reflected in the license itself was not of the Driver, but of some other person. Undisputedly, the vehicle involved in the accident was dully insured at the time of accident, therefore the order for pay and recovery, which has been made by the Tribunal cannot be found fault with and thus the appeal of the Insurance Company having no force deserves to be and is accordingly dismissed.

6. So far as the appeal of the Claimant seeking enhancement is concerned from the record, which has come before this Court what is reflected is that Claimant in the instant case have not been able to produce sufficient evidence so far as the permanent disability is concerned and that the treating Doctor also has not been examined before the Court below. The certificate of disability, if any, is also not from the District Medical Board.

7. However, this Court is of the opinion that since the accident is not in dispute, the fact that the Claimant has received the injuries is also not in dispute, this Court is of the opinion that ends of justice would meet if the Claimant is awarded an additional lump sum compensation of Rs.25,000/- in addition to what has already been awarded by the Tribunal. Thus, the Claimant shall be entitled for a total compensation of Rs.2,08,655/- instead of Rs.1,83,655/-. The said enhanced amount shall also carry interest at the same rate as has been awarded by the Tribunal.

8. Thus, the appeal of the Claimant stands allowed in part and the appeal of the Insurance Company stands dismissed.

Sd/-
**(P. Sam Koshy)**
**Judge**

Ved