

NAFR

HIGH COURT of CHHATTISGARH, BILASPUR**MAC No. 752 of 2009**

America Bai W/o Tokhan Lal Madhukar, aged about 35 years, R/o Village & Post Tamora, PS Utai, Tahsil Gunderdehi, Distt. Durg (CG).

---- Appellant**Versus**

1. Jagdish Singh S/o Chatur Singh Gendre, aged about 21 years, R/o Village & Post Bhimkanhar, PS Daundi, District Durg (CG).
2. Chetan Singh S/o Chatur Singh Gendre R/o Village Bhimkanhar, PS Daundi, Durg.
3. Divisional Manager Iffco Tokio General Insurance Co. I.T.G.I. 3rd Floor, Lal Ganga Shopping, GE Road, Raipur (CG).

---- Respondents

For Appellant	:	Shri PR Patankar, Advocate.
For respondent No.3	:	Shri Amrito Das, Advocate.

SB: Hon'ble Shri Justice P. Sam Koshy**Judgment On Board****25.10.2017.**

1. The present is an appeal filed by the claimant seeking enhancement of compensation under Section 173 of the Motor Vehicles Act (for short, the MV Act) against the award dated 24.01.2009 passed by the 7th Additional Motor Accident Claims Tribunal (FTC) Durg (for short, the Tribunal) in Claim Case No.74 of 2008. Vide the said impugned award, the Tribunal in a claim application filed under Section 166 of the MV Act has awarded compensation of Rs.61,583/-along with interest @ 6 percent per annum from the date of application.
2. Learned counsel appearing for the appellant submits that the compensation awarded is on a lower side inasmuch as the claimant has received grievous injuries on her right leg and had to be operated for her fracture and steel plate had to be installed at the place of

fracture. The treating doctor was also examined who certified the disability at 15 percent. In addition, loss of income during treatment has also not been considered. The amount of compensation paid towards pain and suffering and other incidental expenses incurred are also on lower side, and therefore, prayed for the amount of compensation to be suitably modified or enhanced.

3. Counsel for the insurance company however opposing the appeal submits that the award passed by the Tribunal seems to be fair and reasonable considering the entire facts and circumstances of the case.
4. Having heard the rival contentions put forth on either side and on perusal of records, the undisputed facts are the date of accident, the injury suffered by the claimant and the subsequent treatment that she had undergone for three months. If we look into the nature of injuries suffered by the claimant that itself would reflect that the claimant must have undergone great element of pain and suffering as also mental agony during the course of treatment when her right foot was plastered and steel plate was installed. Thus, looking to the nature of injuries, the period of treatment that she has undergone i.e. for 3 months during which period her right foot was plastered and steel plate was installed and she must have suffered great amount of anxiety, pain and suffering, and mental agony, this court is of the opinion that ends of justice would meet if a consolidated lump sum compensation of Rs.50,000/- is awarded to the claimant in addition to what has already been awarded by the Tribunal. It is ordered accordingly.

5. Thus, the total compensation payable to the claimant would be Rs.1,11,583/- instead of Rs.61,583/- as awarded by the Tribunal.
6. The said enhanced amount of compensation shall also carry interest at the same rate as awarded by the Tribunal i.e. 6 percent per annum.
7. Accordingly, the appeal of the claimant stands allowed and disposed off.

Sd/-
(P.Sam Koshy)
Judge

inder