

HIGH COURT OF CHHATTISGARH AT BILASPUR**MAC No.1596 of 2017**

Shobhe Lal Kumhare S/o Sita Ram Kumhare, aged about 45 years, R/o Ram Nagar Sikohabhatha, Durg, P.S. Mohan Nagar, Durg, Tahsil and District Durg (C.G.).

---Appellant

Versus

1. Divisional Manager, National Insurance Company Limited, Gil Complex, Near Gurudwara, Station Road, Durg, Tahsil and District Durg (C.G.) (Insurer).
2. Teepu Sinha S/o Shri Shyam Lal Sinha, R/o Kanhaiyapuri, Kasaridih, Durg, Tahsil and District Durg (C.G.) (Owner).
3. Shashi Kant Yadav S/o Late Ramvriksha Yadav, aged about 40 years, R/o Pacharipara, Kuwa Chowk, Durg, P.S.Durg, District Durg (C.G.) (Driver).

---Respondents

For the appellant : Shri Sudhir Verma, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

24/11/2017

1. Present is an appeal by the claimant under Section 173 of the Motor Vehicles Act assailing the award dated 22/09/2017 passed by the learned 1st Additional Motor Accident Claims Tribunal, Durg, District Durg (C.G.) in Motor Accident Claim Case No.259/2015.

2. Vide the impugned award, the Tribunal in a Claim Case under Section 140 and 166 of the Motor Vehicles Act has awarded a compensation of Rs.50,000/- with interest @ 9% per annum from the date of application.

3. The counsel for the appellant submits that, the claimant in the instant case had suffered a fracture on his left leg and that it had also to be operated upon for the healing up of the fracture. That he was a bag and shoe maker and was operating the machines with his feet for the repairing and manufacturing of bags and shoes. But by virtue of the disability and the accident, the claimant is not been able to use his feet properly as much as he was using prior to his accident and which has reduced his earning capacity and he should have been suitably compensated.

4. However perusal of record show that, there was no disability certificate produced by the claimant. Nor was there any medical evidence adduced before the Tribunal to substantiate the disability part. In the absence of either of the two, the finding of the Tribunal in awarding Rs.50,000/- for the compensation of the fracture of the left leg seems to be just and reasonable.

5. Perusal of record however shows that, there seems to be a slight calculation mistake while quantifying the compensation in as much as for engagement of an attendant, the Tribunal has awarded only Rs.6,000/- at the rate of Rs.200/- per day whereas the amount would come to Rs.12,000/- and as such the impugned award deserves to be modified to the extent of quantum of compensation awarded by the Tribunal should be read as 56,000/- instead of Rs.50,000/- as awarded by the Tribunal. The said error is evident from the reading of paragraph 22 of the impugned judgment wherein the Tribunal has held that, there was engagement of an attendant at the rate of Rs.200/- for two

months which would bring the amount to Rs.12,000/- instead of Rs.6,000/- as has been calculated by the Tribunal.

6. Thus, the award stands modified to the aforesaid extent and the appeal stands rejected.

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

Sumit