

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Misc. Appeal No. 880 of 2006**

Jivraj Kumar Yadav S/o Shri Ram Yadav, R/o village Jepra, Tahsil &
District Kanker, Occupation Service

---- Appellant**Versus**

1. Lakhan Singh S/o Nanalal Patel, R/o Patel Saw Mill, M.G. Road, Jaipur,
District Koraput (Orissa) (Driver of the alleged vehicle)
2. Naveen Patel S/o Rao Lal Patel through Royal Plywood M.G. Road,
Jaipur, District Koraput (Orissa) (Owner of the alleged vehicle)
3. The New India Insurance Company Ltd. Bhuneshwar, Orissa, through
Branch Office power house Bhilai, Opp: Project Automobile Bhilai, District
Durg (CG)

---- Respondents

For Appellant	:	Shri Ajay Chandra, Advocate
For Respondent no.3	:	Shri Deepak Gupta, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****13/07/2017**

The challenge in the present appeal is the award dated 04.01.2006 passed by the 1st Motor Accident Claims Tribunal, Kanker in Claim Case No. 08/05 whereby the Tribunal has granted compensation of Rs.1,06,560/- with interest @ 6 % per annum.

2. The facts of the case in brief are that the claimant met with an accident while he was going on his motorcycle on 13.08.2003, it was hit by one Qualis Car bearing registration no. O.R. 10C/1111 which was being driven rashly and negligently by respondent no.1. The said car was owned by respondent no.2 and insured by respondent no.3. As a result of the said

accident, the claimant sustained multiple injuries all over his body and was hospitalized and had to undergo considerable treatment. Subsequently, he filed a claim application under Section 166 of the Motor Vehicles Act before the Tribunal.

3. On the basis of the evidences which have come on record, the Tribunal vide impugned award dated 04.01.2006 granted compensation of Rs.1,06,560/- to the claimant. From the said amount, Rs.56,560/- was given towards medical expenses and Rs,50,000/- towards pain, suffering and mental agony.

4. It is this award which has been put to challenge by the claimant in the present appeal for enhancement.

5. Counsel for the appellant submits that considering the nature of injuries which had sustained by the appellant, the compensation awarded to the appellant is considerably on a lower side and therefore, the impugned award deserves to be suitably modified.

6. Counsel for the respondent no.3 however opposes the same on the ground that the Tribunal while passing the award has considered the evidences which have come on record and also the documentary proof, therefore, there is no scope of interference with the impugned award.

7. Having considered the submissions put forth by the counsel on either side and also taking into account the record which was produced before this Court, certain admitted facts which stand on the basis of the record are the date of accident, the appellant getting grievous injuries on account of the said accident, the vehicle belonging to respondent no.2, driven by respondent no.1 and insured by respondent no.3 involved in the accident.

Another admitted position is that the appellant was working as a helper Grade-II with the Electricity Department. From the record it also reflects that the appellant was hospitalized for a period of about two months at MMI, Raipur. So far as the treatment at MMI, Raipur is concerned, the Bills which were produced for an amount of Rs.56,560 have been accepted by the Tribunal. However, there were certain other bills available with the claimants but the same were not accepted by the Tribunal on account of the prescriptions not being produced before the Court during evidence to substantiate his claim for the medical expenses. The doctor in the instant case was examined. Undisputedly the appellant had received multiple fractures on his right leg below the knee which required surgery where steel rods were also affixed in the course of his treatment. There was also fracture on the right hand coupled with the fact that the lower jaw of the claimant was also fractured and the right leg of the claimant has been shortened by 2". This being the medical state of affair of the claimant, the amount of Rs.50,000/- which has been awarded by the Tribunal definitely is too meager. The appellant must have undergone great amount of pain, suffering and mental agony. Further if we look into the medical expenses part also, true it is that the Tribunal has allowed the Bills which were supported by proper prescriptions but in certain cases, the prescriptions are generally not produced during the course of hearing and in the course it gets slipped or missed at times. Though in the present case the bills had been produced before the Tribunal but the same could not be substantiated for want of proper prescriptions on the date of evidence. However, there cannot be any dispute as to the fact that considering the nature of injury and the treatment that was given to the appellant, he must have incurred

certain medical expenses also in addition to the expenses that he had incurred while being hospitalized at MMI Raipur.

8. In the aforesaid factual background of the case, this Court is of the opinion that ends of justice would meet if the compensation awarded by the Tribunal to the appellant is enhanced. Accordingly, it is ordered that the appellant shall be entitled for an additional amount of Rs.25,000/- towards medical expenses for the subsequent treatment which the appellant must have undertaken in addition to Rs.56,560/- as awarded by the Tribunal. Likewise, the compensation for mental agony, pain and suffering is also enhanced to Rs.1,50,000/- from that of Rs.50,000/-. Thus, the impugned award stands modified to that extent.

9. It is ordered that the respondent no.3 shall pay the additional enhanced amount of Rs.1,25,000/- to the appellant within a period of two months from the date of receipt of certified copy of this order. The enhanced amount shall also carry interest at the rate as fixed by the Tribunal in its award.

10. With the aforesaid modification to the impugned award, the appeal stands allowed.

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