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HIGH COURT OF CHHATTISGARH AT BILASPUR**MISC. APPEAL NO. 635 OF 2006**

Gopal, S/o Late Shri Narayan Singh Patel, aged about 50 years, R/o Ratnabandha, Dhamtari, District Dhamtari (C.G.)

... Appellant**Versus**

1. Branch Manager, National Insurance Company Limited, Branch Office Mobin Mahal, G.E. Road, Raipur (C.G.)

2. Gurudeo, S/o Charan Singh Punjabi, R/o Dankbanglaw Ward Dhamtari, District Dhamtari (C.G.)

... Respondents

For Appellant	:	Mr. Vivek Tripathi, Advocate, under instructions of Mr. Awadh Tripathi, Advocate.
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For Respondent No.1	:	Mr. Anand Kumar Gupta, Advocate.
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Hon'ble Shri Justice P. Sam Koshy**Order on Board****24/08/2017**

1. The present is an appeal under Section 173 of the Motor Vehicles Act, 1988, by the Appellant-Claimant seeking enhancement of the compensation awarded.

2. Challenge is to the award dated 25.11.2005 passed by the Additional Motor Accident Claims Tribunal, District Dhamtari (as it then was), in Claim Case No. 108 of 2004.

3. Vide the said impugned award, the Tribunal in a proceeding under Section 166 of the Motor Vehicles Act has awarded a compensation of Rs.1,61,000/- fastening the liability upon the Respondents for payment of the same. Break up of the said amount of compensation is, Rs.1,26,000/- towards the medical expenses, Rs.25,000/- towards the disability sustained and Rs.10,000/- for the pain and suffering.

4. It is this award which is under challenge in the present appeal.

5. Learned Counsel for the Appellant-Claimant submits that it is a case where the Appellant has suffered three fractures, i.e., his left leg, right shoulder and the right ribs had all got fractured and he was hospitalized for a considerable period of time and had to be under treatment for a very long time and also he has incurred medical expenses even after during the claim proceeding and also subsequently. He further submits that the amount of compensation awarded for the disability is too meagre an amount and the same deserves to be enhanced suitably considering the nature of injuries which the Appellant had sustained.

6. Learned Counsel for the Respondent-Insurance Company however opposing the appeal submits that the Tribunal in the instant case has considered the evidence which have come on record and reached to the conclusion that the Claimant since was a government employee there was no loss of income as he was getting his salary regularly and there is also no reduction to his income by virtue of his nature of employment. The Claimant has been granted minimum of the amount towards the disability that is of 25%, he thus prayed for the rejection of the appeal.

7. Considering the total facts and circumstances of the case particularly the injury part suffered by the Claimant has been proved and established by deposition of two of the Doctors i.e. AW-2 Dr. Gopal Singh Patel and AW-3 Dr. R.S. Thakur, who have categorically adduced before the Tribunal in respect of the injuries suffered by the Claimant. Undisputedly, from the evidence of the Doctors, it reflects that the right ribs, right shoulder and left leg of the Claimant had sustained fracture injuries. This by itself would show the gravity of the injuries and impact of the accident. The fact that he had suffered from three fractures at the three important areas of the body, it must have definitely put him to a great element of inconvenience, discomfort and pain and agony and also must

have taken a considerable period of time for treatment. Though the Tribunal has granted a compensation Rs.1,26,000/- towards medical expenses, there definitely would have been more expenses incurred in due course of time. Likewise, though there might not have any loss of income the Claimant being a government employee, but by virtue of the accident he must have definitely suffered from physical disability so far as his mobility is concerned which would have affected his employment and which would have a long bearing effect even beyond his service period.

8. Thus, the amount of compensation of Rs.25,000/- towards disability as awarded by the Tribunal is extremely on the lower side and the same deserves to be enhanced. Likewise, the compensation of Rs.10,000/- awarded for pain and suffering also is on the lower side and deserves enhancement considering the nature of injuries sustained.

9. Accordingly, in the opinion of this Court, the Appellant-Claimant is granted a lump sum compensation of Rs.1,25,000/- in addition to what has already been awarded by the Tribunal. The enhanced amount of Rs.1,25,000/- shall carry interest at the same rate as has been awarded by the Tribunal. It is thus ordered accordingly.

10. The appeal is allowed and disposed of accordingly.

Sd/-
(P. Sam Koshy)
Judge