

HIGH COURT OF CHHATTISGARH, BILASPUR

MAC No. 115 of 2006

Suresh Shrivastava, S/o. Shri Pyarelal Shrivastava, aged about 35 years, R/o. Medhki, Post Baghmara, Tahsil Balod, District Durg (CG).

---- Appellant

Versus

1. Subhan Khan, S/o. Shri Mustafa Khan (Musalman), aged about 29 years, R/o. Idgahbhatha, Near Lakhenagar, Near Water Tank, Raipur, Distt. Raipur (CG)
2. Shatrughan Prasad, S/o. Shri Shivmangal Prasad Thakur, Presently residing at Kabirnagar, Heerapur, Raipur (CG)
3. The Branch Manager, Oriental Insurance Company, Limited, Near Amar Talkies, Dhamtari, Tahsil and Distt. Dhamtari (CG)

----Respondents

For Appellant	:	Shri Atanu Ghosh, Advocate
For Respondent No.3-Insurance Company	:	Shri Anand Kumar Gupta, Advocate

Hon'ble Shri Justice P. Sam Koshy

Order On Board

24/08/2017

1. The appeal is heard finally. The appeal is filed by the Claimants under Section 173 of the Motor Vehicle Act. The challenge is to the award dated 08.05.2006, passed by the 11th Additional Motor Accident Claims Tribunal (FTC), Durg in Claim Case No. 62/2005.
2. Vide the said impugned award in an injury case under Section 166 of the Motor Vehicle Act, the Tribunal has awarded compensation of Rs.67,721/- with interest @ 6% per annum the break-up of which was Rs.24,720/- towards medical expenses, Rs.8,000/- towards special diet, attainer and traveling allowances, Rs.10,000/- towards pain and suffering plus loss of income during treatment of Rs. 25,000/- totaling Rs.67,720/-.
3. It is this award which is under challenge by the claimants seeking enhancement. The counsel for the appellant drew the attention of this Court to the nature of injuries sustained by the appellant and the fact that for the proper cure of the fractures sustained, the appellant had to be subjected to 3-4 operations during which period, the steel plate/rod inserted at the place of

operation had to be replace on couple of occasions. This aspect has further been proved by the Doctor who has been examined namely V.S. Baghel and who has further assessed that there is a permanent disability of 16% suffered by the appellant. Though the Tribunal has awarded compensation of Rs.67,000/- in the break-up mentioned in the preceding paragraph, but it does not show of any compensation having being paid to the disability sustained by the appellant only on the ground that during the course of the evidence, the claimant is set to have made a statement that there was no reduction in the salary that he has earning prior to the accident, therefore, no compensation was awarded.

4. True it is that, from the nature of injuries sustained by the appellant, the number of operations he had to undergo, in addition, the steel plates having to be replaced on couple of occasions, the appellant must have definitely undergone great amount of mental agony, pain and suffering etc. In addition undisputedly the appellant must have also sustained some element of permanent disability because of the accidental injuries that he has suffered. It may be a case, where he may not have got his salary reduced, but then his working capacity, his physical movements and also his strength of the leg which was injured must have been lost and it is this which has been assessed by the Doctor at 16% permanent disability.
5. This Court considering the entire factual matrix of the case feels proper to holds that end of justice would meet if the appellant in the instant case is granted lump-sum compensation of Rs.1,00,000/- towards 16% of disability that he has suffered by virtue of the injury. The said amount would be in addition to the amount of compensation awarded by the Tribunal. The said enhanced compensation shall also carry interest at the same rate as has been awarded by the Tribunal. Rest of the conditions of the award remains intact.
6. The appeal thus is allowed and disposed off.

Sd/-
(P. Sam Koshy)
JUDGE