

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****MAC No. 446 of 2017**

- Smt. Sandhya Mukherji W/o Shri Jayant Mukherji, aged 44 years R/o Jhagarakhand, P.S. Jhagakhand Tehsil manendragarh District Korea.

---- Appellant**Versus**

1. Ramraj S/o Shri Ramadha Dwivedi, aged about 42 years, R/o Pahadi P.S. Hanumana, District Rewa (M.P.)
2. Dharendra Pratap Singh S/o Shri Tejman Singh, R/o Kripalpur Satna, District Satna (M.P.)
3. H.D.F.C. Ergo General Insurance Company Limited, Hanif Tower 1840 Napier Town Mission, Compound Road, Jabalpur (M.P.)

---- Respondents

For Appellant.	:	Shri Shakti Raj Sinha and Shri Nishi Kant Sinha, Advocates.
For Respondents 1&2 :	:	None.
For Respondent No.3.:	:	Shri Amrito Das and Shri B. Acharya, Advocates

Hon'ble Shri Justice Pritinker Diwaker
Hon'ble Shri Justice Ram Prasanna Sharma

Order On Board**By Pritinker Diwaker, J****03/08/2017**

1. This appeal filed by the claimant/appellant arises out of the award dated 30.07.2017 passed by 1st Additional Motor Accident Claims Tribunal (for short the "Tribunal")

Manendragarh, District Korla in Claim Case No.13/2015 whereby in an injury case compensation of Rs.18,000/- has been awarded to the claimant/appellant herein.

2. Facts of the case, in brief are that on 22.01.2012 the claimant along with her friend was coming on scooty bearing registration No.CG-16-D-3903 as pillion rider from Govt. High School, Kothari to Manendragarh. When she reached near Old Forest Barrier Rinku Furniture, the offending vehicle i.e. Bus bearing registration No.MP-17-P-0519 being driven by respondent No.1 herein rashly and negligently, came from back side and dashed the scooty of the claimant, as a result of which, she suffered injuries on her back, knee and waist including fracture of right ankle and main bone of toe. The appellant/claimant hospitalized for one month in Apollo Hospital, Bilaspur and as per certificate Ex.A/79, she suffered 40% disability. A claim case was filed by the claimant/appellant claiming compensation to the tune of Rs.23,37,745/- under various heads, *inter alia*, pleading that at the time of accident she was aged 44 years and was working as Shiksha Karmi Grade-I. After the accident, she was taken to District Hospital, Korla from where she was referred to Apollo Hospital, Bilaspur where she was operated by the expert and remained hospitalized from 22.02.2012 to 22.03.2012 i.e. one month. It has been further pleaded that due to the said accident, the claimant is unable to perform his

day to day work and she could not attend the office for four years.

03. Pleadings of the claimant has, however, been denied by the respondent/insurance company.

04. The Claims Tribunal by the impugned award has awarded a compensation of Rs.18,000/- to the appellant under various head such as pain & suffering, special diet and transportation incurred in the treatment. It is this award which has been challenged by the appellant in this appeal.

05. Counsel for the appellant submits as under:-

- That the Claims Tribunal has erred in law in awarding very negligible compensation for the injuries sustained by the claimant.
- That no amount has been granted under the head future treatment, loss of amenities and loss of salary during the period of treatment. The sum awarded under the head "pain & suffering" is also on the lower side.

06. On the other hand, learned counsel for respondent No.3- Insurance Company supported the impugned award.

07. Heard counsel for the appellant and perused the material available on record.

08. In this case, though there no evidence that the appellant could not attend her duties for about four years, however, the fact has been proved by leading cogent evidence that she was

medically unfit to attend her duties. Admittedly, the claimant/appellant has suffered injuries on her back and waist including major fracture of left toe and ankle. Initially, the appellant was treated at District Hospital, Korla from where she was referred to Apollo Hospital, Bilaspur and remained hospitalized for one month and that she was operated, we are of the view that the appellant atleast might not have attended her duties for about eight months.

09. Thus, keeping in view all the above things, this Court is of the view that the amount awarded by the Claims Tribunal is on lower side and requires reconsideration. The claimant/appellant is entitled for compensation in the following manner:-

Head	Amount awarded	Amount enhanced
For Loss of Income	Nil	Rs.1,00,000/-
For Disability	Nil	Rs.2,00,000/-
For Loss of amenities	Nil	Rs.1,00,000/-
For Pain and Suffering	Rs.10,000/-	Rs.1,00,000/-
For Conveyance and Special Diet	Rs.8,000/-	Rs.50,000/-
	Total	Rs.5,50,000/-

10. On the basis of aforesaid discussion, the claimant/appellant is held entitled for a total compensation of Rs.5,50,000/-. Since, the Claims Tribunal has already awarded Rs.18,000/-, after deducting the said amount, the claimant/appellant is entitled for enhanced amount of Rs.5,32,000/- (5,50,000 - 18,000). This additional amount of

compensation shall carry interest @ 9% p.a. from the date of filing of claim application till realization. The amount received by the claimant, if any, shall be adjusted in the enhanced sum.

11. In the result, the appeal is allowed in part and the award impugned stands modified to the extent indicated above.

Sd/-

(Pritinker Diwaker)
Judge

Sd/-

(Ram Prasanna Sharma)
Judge

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