

**HIGH COURT of CHHATTISGARH, BILASPUR****MAC No. 595 of 2010**

Devendra Kumar Sharma S/o Shalig Ram Sharma, R/o Q.No. R.E./287 Railway Colony, Dongargarh, Distt.-Rajnandgaon (CG).

**---- Appellant**

**Versus**

1. Jakir Saiyyad S/o Mustafa Saiyyad, Caste Musalman, R/o Ram Nagar, Manohar Colony, Near House of Prafull Bhai Patel, Gondia, Distt. Gondia (MH) (Driver of Vehicle No.CG-07-ZB-0779)
2. Kanhaiya Lal Ramani S/o Songat Ram Ramani, aged about 45 years, Mohan Nagar, Durg, Tah. & Distt. Durg (CG).
3. The Oriental Insurance Co. Ltd. Branch Office Main Road, Gondia, Through the Oriental Insurance Co.Ltd. Branch Office, Kanthi Line, Rajnandgaon (CG).

**---- Respondents**

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|---------------------|---|-----------------------------------------------------------------------------|
| For Appellant       | : | Shri AL Singroul, Advocate, on behalf of<br>Shri Aman Kesharwani, Advocate. |
| For respondent No.3 | : | Shri Sudhir Agrawal, Advocate.                                              |

**SB: Hon'ble Shri Justice P. Sam Koshy**

**Judgment On Board**

**11.10.2017.**

1. The present is an appeal under Section 173 of the Motor Vehicles Act (for short, the MV Act) filed by the claimant seeking enhancement of compensation against the award dated 03.02.2010 passed by the Additional Motor Accident Claims Tribunal, Dongargarh, Distt. Rajnandgaon (for short, the Tribunal) in Claim Case No.01 of 2008.
2. It is a case where the appellant had suffered amputation of his right leg from the middle of thigh from an accident that took place on 03.10.2007 when the appellant, travelling on a motorcycle, was hit by a Matador bearing registration No.CG-07-ZB-0779 which was owned by the respondent No.2, driven by respondent No.1 and was duly insured with the respondent No.3-Oriental Insurance Co. Ltd.

3. The counsel for the appellant submits that the appellant in the instant case was working as an Electrical Engineer in the Railway Department and at the time of accident he was getting monthly salary of Rs.20,000/-. By virtue of amputation of his right leg from the middle of thigh, the appellant had to undergo great amount of pain and suffering and mental agony. In addition, he has also put loss of amenities in life which otherwise he would have enjoyed had his right leg not being amputated. It was also contended that the amount of compensation awarded towards pain and suffering for amputation of right leg is on the lower side. Likewise, no compensation has been awarded for loss of amenities in life. Further, though the appellant was working with the Railway Department and was getting salary and had a pensionable job, but in time to come i.e. post retirement, he would definitely be put a great loss by virtue of amputation, or else he could have got a better post retirement assignment because of his technical expertise in the field. Therefore, the Tribunal should have granted some compensation under this head also.
4. Counsel for the insurance company however opposes the appeal and submits that the amount of compensation awarded is fair and reasonable as the appellant being an employee of the Railway Department, there was no loss of earning capacity. Further, being a railway employee, he has got all the medical facilities available free of cost and as such there is not much of financial loss incurred by the appellant. Further, whatever loss suffered, he has been fairly compensated. Thus, prayed for rejection of the appeal.

5. Having heard the rival contentions put forth on either side and on perusal of records, what is relevant to be taken note from the factual aspect is that the accident occurred on 03.10.2007 and the vehicle involved in the accident, belonging to the respondent No.2 was duly insured with the respondent No.3. What is also not in dispute is the status of the appellant of being an Electrical Engineer with the Railway Department. Another admitted factual position is the fact that there has been no loss of earning capacity suffered by the injured appellant by virtue of accident and the post accident treatment. Further treatment and medical assistance is also being provided by the department.
6. In spite of all these, there are certain areas which cannot be compensated or quantified particularly in cases of amputation like loss of amenities in life. Considering the status of the appellant of being Class-I officer with the Railway Department and that by virtue of amputation of his right leg he would not be in a position to move freely as he was moving prior to the accident. Further, he would also not be able to enjoy free movement in his life like he would not be able to drive a Car nor he would be in a position to drive a motorcycle again without the assistance of another person.
7. There are many areas of similar nature which would hamper the normal routine life of the appellant that he was enjoying prior to the date of accident. Further, it is any body's guess that in case of amputation of right leg that too from the middle of thigh, a person must have undergone huge amount of mental agony, pain and suffering. In addition, the appellant must have incurred considerable incidental

expenses towards transportation from one place to another both that of appellant-injured as well as his family members while treatment where they must have required to engage a taxi, as due to amputation, the appellant was not in a position to move. All these must have incurred huge expenses.

8. Considering the aforesaid factual matrix of the case, this court is of the opinion that ends of justice would meet if the appellant is awarded a lump sum compensation of Rs.2,00,000/-for pain and suffering and mental agony that he has undergone because of amputation of his right leg. Likewise, for loss of amenities in life also this court quantifies the compensation at Rs.1,00,000/-. So far as accidental transport expenses is concerned, this court quantifies the same at Rs.50,000/-.
9. Another aspect which needs consideration of this court is the fact that admittedly the appellant was an employee of the Railway where age of the retirement is 60 years. The fact that he was an Electrical Engineer and there were all possibility that during post retirement period he would have got a better employment considering the expertise and the technical knowledge that he has, but the accident and the resultant amputation of his right leg would definitely hamper his prospect of getting better employment after retirement. Thus, this court is of the opinion that under this head of future prospects also for the loss that the appellant shall suffer, ends of justice would meet if the appellant is awarded a compensation of Rs.2,00,000/-. It is ordered accordingly.
10. Thus, the appellant-claimant shall now be entitled for an additional amount of compensation of Rs.5,50,000/- in addition to what has

already been awarded by the Tribunal.

11. The said enhanced amount of compensation shall also carry interest @ 6 percent per annum from the date of application till its actual payment.
12. The appeal thus stands allowed and disposed of.

Sd/-

(P.Sam Koshy)  
**Judge**

inder