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HIGH COURT of CHHATTISGARH, BILASPUR**MAC No. 631 of 2006**

Shatruhan S/o Gayaram by caste Gond, Aged about 30 years, R/o Madamsilli, Tahsil Nagari, Distt. Dhamtari (CG).

---- Appellant

Versus

1. Naresh S/o Mahadu Ram Jain, By caste Souri, R/o Maradev, Tehsil Narharpur, Distt. Kanker (CG).
2. Pahaduram S/o Bhangiram, by caste, Souri, R/o Maradev, Tehsil Narharpur, Distt. Kanker (CG).
3. Branch Manager, The New India Insurance Co. Ltd. Thakkar Bhawan, GE Road, Bhilai, Distt. Durg (CG).

---- Respondents

MAC No. 627 Of 2006

Jeewan Lal S/o Dayaram Yadav, aged about 34 years, R/o Madamsilli, Tahsil Nagari, Distt. Dhamtari (CG).

---- Appellant

Versus

1. Naresh S/o Mahadu Ram Jain, By caste Souri, R/o Maradev, Tehsil Narharpur, Distt. Kanker (CG).
2. Pahaduram S/o Bhangiram, by caste, Souri, R/o Maradev, Tehsil Narharpur, Distt. Kanker (CG).
3. Branch Manager, The New India Insurance Co. Ltd. Thakkar Bhawan, GE Road, Bhilai, Distt. Durg (CG).

---- Respondents

MAC No. 628 Of 2006

Satish S/o Ramprasad, by caste Devdas, aged about 21 years, R/o Madamsilli, Tahsil Nagari, Distt. Dhamtari (CG).

---- Appellant

Versus

1. Naresh S/o Mahadu Ram Jain, By caste Souri, R/o Maradev, Tehsil Narharpur, Distt. Kanker (CG).
2. Pahaduram S/o Bhangiram, by caste, Souri, R/o Maradev, Tehsil Narharpur, Distt. Kanker (CG).
3. Branch Manager, The New India Insurance Co. Ltd. Thakkar Bhawan, GE Road, Bhilai, Distt. Durg (CG).

---- Respondents

MAC No. 629 Of 2006

Rambharosa S/o Siyaram, aged about 21 years, R/o Madamsilli, Tahsil Nagari, Distt. Dhamtari (CG).

---- Appellant

Versus

1. Naresh S/o Mahadu Ram Jain, By caste Souri, R/o Maradev, Tehsil

- Narharpur, Distt. Kanker (CG).
2. Pahaduram S/o Bhangiram, by caste, Sour, R/o Maradev, Tehsil Narharpur, Distt. Kanker (CG).
 3. Branch Manager, The New India Insurance Co. Ltd. Thakkar Bhawan, GE Road, Bhilai, Distt. Durg (CG).

---- Respondents

&
MAC No. 630 Of 2006

Kumbhkaran S/o Videsh Ram, by caste Gond, aged about 22 years, R/o Madamsilli, Tahsil Nagari, Distt. Dhamtari (CG).

---- Appellant

Versus

1. Naresh S/o Mahadu Ram Jain, By caste Sour, R/o Maradev, Tehsil Narharpur, Distt. Kanker (CG).
2. Pahaduram S/o Bhangiram, by caste, Sour, R/o Maradev, Tehsil Narharpur, Distt. Kanker (CG).
3. Branch Manager, The New India Insurance Co. Ltd. Thakkar Bhawan, GE Road, Bhilai, Distt. Durg (CG).

---- Respondents

For Appellant	:	Smt. Indira Tripathi, Advocate.
For Owner & Driver	:	Ms. Nandkumari Kashyap, Advocate.
For Insurance Company	:	Shri Sourabh Sharma, Advocate.

SB: Hon'ble Shri Justice P. Sam Koshy

Order On Board

18/08/2017

1. Since these five appeals arise out of common award passed in five different claim cases arising out of same accident by the Tribunal and considering the facts being identical, this court proceeds to decide these appeals by this common order.
2. These are appeals preferred by the claimants under Section 173 of the Motor Vehicles Act against the award dated 23.11.2006 passed by the Additional Motor Accident Claims Tribunal, Dhamtari (in short, the Tribunal) in Claim Case Nos.238,237,234,233 and 230 of 2004 respectively.
3. The brief facts of the case is that, all the five claimants claimed to be

the labourers working on the Tractor-Trolley bearing registration No. CG-05-9205 and CG-05-9206 belonging to the respondent No.2 which was being driven by respondent No.1 and in the course of their employment on 06.01.2004 in the said Tractor-Trolley, en-route the vehicle turned turtle as a result of which all the claimants sustained injuries.

4. The claimants-injured persons had filed separate claim applications before the Tribunal which was registered as Claim Case Nos. 238,237,234,233 and 230 of 2004 respectively.
5. After the pleadings were complete wherein the claimants, in addition to their own statement, also recorded the evidence of medical expert, the Tribunal considering the evidence which have come on record passed the award and granted compensation of Rs. 26,000/-, 26,000/-, 7,000/-, 25,000/- and 26,000/- respectively to each of the claimants. It is this award which is under challenge by each of the claimants.
6. The ground of challenge by the appellants is that the Tribunal has not properly appreciated the gravity of injuries which have been sustained by the appellants. It was further contended that the Tribunal has also not appreciated the opinion of the doctor who was examined before the court below and who has assessed the disability in each of the claimants except for claimant Satish (in Claim Case No.234 of 2004). On the basis of the doctor's opinion as also the statement of the claimants and the nature of injuries sustained, counsel for the appellants has sought for amount of compensation to

be enhanced suitably.

7. Counsel for the insurance company however opposes the appeals and submits that the award passed by the Tribunal is just and reasonable and does not warrant any interference as the award of the Tribunal is based upon the evidence which have come on record. It was further contended by the counsel for the insurance company that the evidence of the doctor seems to be mechanical in manner for the simple reason that he was not the treating doctor and that no explanation is provided by the doctor as to on what basis he has assessed the disability of the injured persons.
8. Having heard the rival contentions put forth on either side and on perusal of records, from the pleadings which have come before the Tribunal the undisputed facts which errupts is the accident that took place on 06.01.2004; the Tractor-Trolley owned by respondent No.2 and driven by respondent No.1. It is also not in dispute that all the five claimants had sustained injuries in the said accident. The claimants also tried to support their case by leading evidence of doctor. Except for claimant Satish (in Claim Case No.234/2004), all the other appellants-claimants sustained more than one of fracture injuries from the said accident. Further, the doctor has also assessed the some percentage of disability to four appellants except Satish.
9. In view of the same, this court is of the opinion that the nature of injuries sustained by the claimants has been duly established before the Tribunal. The only issue would be as to the extent of the disability which they have sustained and the total loss of income which they

would suffer on account of disability.

10. Considering the fact that these are cases of year, 2004 and taking into consideration the nature of injuries which has been sustained by each of the claimants and also taking note of the opinion of the doctor who has been examined before the Tribunal, this court is of the opinion that ends of justice would meet if each of the claimants, except for claimant-Satish (in MAC No.628 of 2006), are awarded an additional compensation of Rs.50,000/-each in addition to what has already been awarded by the Tribunal. So far as claimant Satish (in MAC No.628 of 2006) is concerned, since the said claimant had not received any fracture injuries except for incised injury on his feet, he is awarded an amount of Rs.18,000/-in addition to what has already been awarded by the Tribunal to him. It is ordered accordingly.
11. With the aforesaid modification in each of the awards passed in all the claim case Nos.238,237,234,233 and 230 of 2004 respectively, the appeal preferred there-against are allowed to the above extent.
12. The enhanced amount of compensation shall also carry interest at the same rate at what has been awarded by the Tribunal.

Sd/-
(P. Sam Koshy)
Judge