

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 90 of 2017**

- Kailash Chandra Mishra S/o Shri Gaurhari Mishra, Aged About 55 Years R/o Near Village- Katangtarai, Thana- Sankra, Tahsil- Pithoura, Civil & Revenue District Mahasamund, Chhattisgarh(Claimant)

---- Petitioner**Versus**

1. Shyam Singh S/o Shri Bhagat Singh, Aged About 34 Years R/o Hajaribag, District Saptari (Jharkhand)(Driver Of Vehicle No. C.G.04-J C-9530)
2. Nitesh Agrawal S/o Shri Ramlal Agrawal, R/o 142 Parthiv Pecefic Tatibandh Raipur, Civil & Revenue District Raipur, Chhattisgarh(Owner Of Vehicle No. C.G.04-J C-9530)
3. Divisional Manager, Cholamandalam General Insurance Company Limited, In Front Of L I C Officer, Near Chhoti Railway Line Move Raipur, Civil & Revenue District Raipur, Chhattisgarh(Insurer Of Vehicle No. C.G.04-J C-9530)

---- Respondents

For Appellant	:	Shri Sumit Shrivastava, Advocate
For Respondent No.2	:	Shri SK Kushwaha, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****25/07/2017**

1. The present is a claimant's appeal under Section 173 of the Motor Vehicle Act, 1988 (for short 'the Act, 1988') seeking for enhancement of the compensation awarded by award dated 29.08.2016 by the First Additional Motor Accident Claim Tribunal, Mahasamund in claim case No.195/2014.
2. Since the factual details of the case are admitted so far as the accident is concerned and the appellant suffering injury from the said accident, the offending vehicle involved in the accident, the vehicle being insured by

respondent No.3 insurance company, this Court is refraining from giving the details of the accident.

3. The claimant in the instant case filed an application under Section 166 of the Act, 1988 seeking for compensation. The Tribunal vide impugned order dated 29.08.2016 has allowed the application and has granted compensation of Rs.68000/- to the claimant with interest @ 7% per annum. It is this award which is under challenge seeking for enhancement. Counsel for the appellant submits that the compensation granted to the grievous injury sustained by the appellant and also for the pain and suffering and mental agony are on a lower side and the same deserves to be enhanced.
4. Counsel for the appellant submits that no compensation has been awarded by the Tribunal towards transportation and incidental expenses including special diet and therefore the award deserves to be modified.
5. Counsel for the respondent insurance company opposes the appeal and submits that the award passed by the Tribunal seems to be proper, legal and justified and the same is reasonable considering the nature of injuries sustained by the appellant, therefore, the present appeal warrants no interference and the same deserves to be rejected.
6. Having considered the rival contentions on either side and perusal of record clearly reflects that as a result of the accident that took place on 22.04.2013, the appellant received injuries all over his body and his right hand got fractured and it was to be operated. The Dr. NK Mandal has deposed of the the disability being 55% proving the injury as well as the disability part of the appellant. Considering the total evidence which have come on record and more particularly the nature of injury which the appellant has sustained, this Court is of the opinion that so far as the compensation for the grievous injury

and disability of the appellant has sustained to the extent of 55% has been assessed by the doctor, the compensation of Rs.25000/- awarded by the Tribunal seems to be on the lower side and therefore, it is ordered that the appellant would be entitled for compensation of Rs.45000/- instead of Rs.25000/- awarded by the Tribunal for the disability and grievous injury sustained by the appellant. Likewise for the mental agony and the pain and suffering which the appellant has undergone also deserves to be enhanced to Rs.45000/- instead of Rs.25000/- as awarded by the Tribunal. Likewise from the perusal of the award it also reflects that the Tribunal has not awarded any compensation under the head of transportation, special diet and incidental expenses, which have been incurred by the appellant. This Court intends to grant compensation under this head to Rs.10000/- payable to the claimant. The claimant shall be entitled for an enhanced amount of Rs.50000/- in addition to what has already been quantified by the Tribunal and the enhanced amount shall also carry the same rate of interest as has been awarded by the Tribunal.

7. The appeal stands allowed and disposed of.

Sd/-

P.Sam Koshy

Judge

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