

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Misc. Appeal (C) No. 673 of 2009**

Mukesh Choudhary S/o Mamchand Choudhary, age 38 years, R/o Hanumam Nagar, Thana Purani Basti, Raipur, Tah & Distt. Raipur (CG)

---- Appellant**Versus**

1. Bharatlal Verma S/o Mayaram Verma, age 43 years, R/o Tarun Nagar, Dangniya, Thana D.D. Nagar, Raipur, Tah & Distt. Raipur (CG) (Non applicant no.1)
2. Rajat Interprises, First floor Naveen Bazar, Phool Chowck, Raipur (Non application no.2)
3. I.C.I.C.I. Lombard General Insurance Company, Lal Ganga Shopping Moll Raipur, Distt. Raipur (CG) (Non applicant no.3)

---- Respondents

For Appellant	:	Shri Sanjay Agrawal, Advocate
For Respondent no.2	:	Shri S. S. Rajput with Shri Anand Gupta, Advocates
For respondent no.3	:	Shri Sourabh Sharma, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****20/09/2017**

Present is an appeal by the claimant under Section 173 of the Motor Vehicles Act seeking for enhancement of the compensation. The challenge is to the award dated 03.01.2009 passed by the 8th Additional Motor Accident Claims Tribunal (FTC) Raipur (CG) in Claim Case No. 44 of 2008. Vide the impugned award the Tribunal in a claim case under Section 166 of the MV Act has awarded a compensation of Rs. 1,21,000/- with interest @ 7.5% per annum from the date of application.

2. Contention of the counsel for the appellant is that the compensation awarded by the Tribunal is unreasonably on the lower side considering the

fact that the appellant had sustained fracture on his right hand and right leg and he was bedridden for a considerable period of time for recovery of the same. He submits that even after recovery from fracture he is not able to perform his duties with the same force with which he used to work before the accident. Counsel for the appellant submits that from the total compensation of Rs.1,21,000/- which has been awarded by the Tribunal, Rs.50,000/- has been awarded towards medical expenses and only Rs.45,000/- has been awarded towards disability part. He submits that even the compensation awarded under the other heads like pain and suffering and other incidental expenses is also on the lower side and prayed for suitable enhancement of the same. Counsel for the appellant submits that the impugned award is also bad in law to the extent of exonerating the Insurance Company of its liability and fastening the same upon the owner.

3. Counsel for the Insurance Company however opposing the appeal submits that the finding of the Tribunal is after due consideration of the evidences which have come on record and the same appears to be just and reasonable and does not warrant any interference. Thus, counsel for the Insurance Company prayed for rejection of the appeal.

4. Having heard the contentions put forth on either side and on perusal of the record, so far as the liability of payment of compensation is concerned, the issue already stands decided vide order dated 19.09.2017 passed in MAC No. 745/09 whereby the appeal preferred by the owner challenging the exoneration of the Insurance Company of its liability of payment of compensation was allowed and the liability has been shifted upon the Insurance Company. Thus, the said issue need not be decided in the present appeal.

5. So far as the claim for enhancement is concerned, undisputedly the appellant had sustained fracture of right hand and right leg for which he must

have undergone a considerable amount of pain and suffering and would have also confined to bed for a considerable period of time. Taking all these facts, this Court is of the opinion that ends of justice would meet if the compensation awarded by the Tribunal is enhanced by granting additional lump sum compensation of Rs.65,000/- in addition to what has already been awarded by the Tribunal. It is ordered accordingly. The enhanced amount shall also carry interest at the same rate as has been awarded by the Tribunal.

6. The appeal thus stands allowed.

**Sd/-
(P. Sam Koshy)
JUDGE**