

NAFR

HIGH COURT of CHHATTISGARH, BILASPUR**MAC No. 948 of 2009**

Tikendra Kumar Sahu S/o Biselal, aged about 28 years, resident of post and village Dundera, Police Station Utai, Tah. & District Durg (CG).

---- Appellant**Versus**

1. Umesh Kumar Latia S/o Sitaram Latia, aged 32 years, Caste Halba Gond, R/o Pander Dalli Chowk, Rajhara, House No.14/6, B Type, Dalli Rajhara, Police Station Dalli Rajhara, Distt. Durg (CG).
2. The Oriental Insurance Co. Ltd. Divisional Office, PB 51-Malviya Nagar, Durg (CG).

---- Respondents

For Appellant	:	Shri PR Patankar, Advocate.
For respondents No.1	:	Shri Santosh Bharat, Advocate.

SB: Hon'ble Shri Justice P. Sam Koshy**Order On Board****22/09/2017**

1. This is claimant's appeal under Section 173 of the Motor Vehicles Act seeking enhancement of compensation against the award dated 20.03.2007 passed by the 9th Additional Motor Accident Claims Tribunal (FTC) Durg (in short, the Tribunal) in Claim Case No.29/2006. Vide the impugned award, the Tribunal in a proceeding under Section 166 of the Motor Vehicles Act has awarded compensation to the tune of Rs.4500/- to the claimant. The Tribunal has further ordered that the amount under no fault liability which the appellant-claimant has received of Rs.25,000/- should be refunded after adjusting the amount of Rs.4500/- as awarded.
2. Learned counsel for the appellant submits that as a result of the accident, the appellant sustained fracture of his left leg and there were personal disability also suffered, where the disability assessed

is of 15 percent. He further submits that it is a case where the offending vehicle belonged to the respondent No.1 and it was respondent No.1 himself who was driving the vehicle at the time of accident. It was also a case where the licence which the respondent No.1 was having was found and proved to be a fake licence. It is further submitted that considering the disability, the compensation awarded by the Tribunal is on the lower side and the same deserves to be suitably enhanced/modified.

3. Learned counsel for the respondent No.1 however opposing the appeal submits that it is a case where the appellant had suffered only minor injury but he has falsely made out a case of injury of 15 percent disability and therefore the compensation awarded by the Tribunal being just and reasonable does not warrant any interference and prayed for dismissal of the appeal.
4. Having heard the contentions on either side and on perusal of records, this court is of the opinion that the amount of compensation awarded by the Tribunal in the given facts and circumstances of the case is on the lower side. Considering the medical evidence which have come on record and the statement of doctor who was examined and the disability assessed being 15 percent, ends of justice would meet if an additional lump sum compensation of Rs.21,500/- is awarded to the appellant. It is ordered accordingly. Thus, an amount of Rs.25,000/- shall be the total compensation payable.
5. It is ordered that in the event if the appellant has received any amount towards no fault liability, the said amount shall be adjusted in

the said amount. Accordingly, it is further held that in the event if the insurance company has deposited any amount under no fault liability, the company shall be at liberty to recover the same from the respondent No.1.

6. The appeal of the claimants thus stands allowed and disposed off.

Sd/-
(P. Sam Koshy)
Judge

inder