

NAFR

HIGH COURT of CHHATTISGARH, BILASPUR
MAC No. 867 of 2017

Bisahu Ram Kaushik, son of Shri Dukhram Kaushik, Aged About 53 Years R/o Village Pand, Police Station Chakrabhata, District Bilaspur, Chhattisgarh.

---- Appellant

Versus

1. Anand Kumar Yadav S/o Late Shri Dayaram Yadav, Aged About 45 Years R/o Village Mathpara, P.S. And District Kawardha (Kabirdham) Chhattisgarh(Driver Of Offending Vehicle Bus Bearing Registration No. C.G.10 G 5470)
2. Prahlad Tiwari S/o Late Bhanupratap Tiwari, Aged About 50 Years R/o Kapil Nagar, Muktidham Chowk, Sarkanda, P.S. Sarkanda, District Bilaspur, Chhattisgarh(Owner Of Offending Vehicle Bus Bearing Registration No. C.G.10 G 5470)
3. Branch Manager, The New India Insurance Company Limited, Branch Bilaspur, District Bilaspur, Chhattisgarh(Insurer Of Offending Vehicle Bus Bearing Registration No. C.G.10 G 5470)

---- Respondents

For Appellant	:	Shri Indrasen Sahu, Advocate.
For respondents No.3	:	Shri P.Dutta, Advocate.

SB: Hon'ble Shri Justice P. Sam Koshy
Order On Board

08/08/2017

1. This is claimant's appeal under Section 173 of the Motor Vehicles Act seeking enhancement of compensation against the award dated 03.04.2017 passed by the 9th Motor Accident Claims Tribunal, Bilaspur (in short, the Tribunal) in Claim Case No.60/2016.
2. Learned counsel appearing for the appellant submits that the appellant met with an accident on 28.09.2015 from the offending vehicle i.e. Bus bearing registration No.CG-10-G-5470 driven by respondent No.1, owned by respondent No.2 and insured by respondent No.3. He submits that as a result of the said accident, the

appellant sustained grievous injuries. In addition, on account of the injuries he had also undergone great mental pain and agony also. He submits that the Tribunal after considering the pleading and evidence have granted only an amount of Rs.60,000/- with interest @ 7.5 percent per annum from the date of application. The said amount is on the lower side and it deserves enhancement. According to him, the amount of Rs.5000/- awarded under the head pain and suffering is extremely on the lower side. Likewise, mental agony suffered by the appellant on account of fracture of his right femur bone has not been properly appreciated by the Tribunal. Dr. S.S. Bhatia, AW-2 was also examined and how has deposed that there is temporary disability of 40 percent. Thus, prayed for suitable enhancement of award amount.

3. Counsel appearing for the respondent-insurance company however opposes the appeal and submits that the amount of compensation awarded seems to be just, fair and reasonable and does not call for any interference, and thus, prayed for the rejection of the Appeal.
4. Taking into consideration the facts and circumstances of the case and also appreciating the fact that AW-2, Dr.S.S. Bhatia has assessed temporary disability of the appellant to the extent of 40 percent on account of injuries sustained in the said accident and also considering the age of the appellant, this court is of the opinion that ends of justice would meet if compensation awarded by the Tribunal is enhanced by a lump sum amount of Rs.40,000/-. It is ordered accordingly.

5. Thus, the appeal is allowed in part. The appellant shall be entitled for an additional amount of Rs.40,000/- as lump sum compensation in addition to what has already been awarded by the Tribunal. The said amount shall also carry interest at the same rate as has been awarded by the Tribunal.
6. The respondent-insurance company is granted a months time to deposit the enhanced amount of compensation before the concerned claims Tribunal.

Sd/-
(P. Sam Koshy)
Judge

inder