

HIGH COURT OF CHHATTISGARH AT BILASPUR**MAC No.1632 of 2008**

Ramkumar S/o Shri Durjan Lal Sahu, aged about 47 years, Occupation Carpenter, R/o Village – Armarikala, Tahsil – Gurur, District Durg (C.G.).

---Appellant

Versus

1. Sanjay Kumar S/o Chhagal Lal, aged about 27 years, R/o Village Sangali, Post Kanwar, Tahsil – Gurur, District Durg (C.G.).
2. Smt.Veena Dilliwar W/o Mukesh Kumar, aged about 40 years, R/o Village – Sanoud, Tahsil – Gurur, District Durg (C.G.).
3. The Branch Manager, Iffco Tokiyo General Insurance Company, Ltd.Branch – Lal Ganga, Shopping Complex, Raipur, District Raipur (C.G.).

---Respondents

For appellant	:	Shri Sumit Shrivastava under instructions of Shri Sunil Sahu, Advocate.
For respondent No.3/ Insurance Company	:	Shri P.Acharya under instructions of Shri Amrito Das, Advocate.

Hon'ble Shri Justice P. Sam Koshy
Order on Board

08/11/2017

1. Present is an appeal by the claimant under Section 173 of the Motor Vehicles Act assailing the award dated 25/08/2008 passed by the learned Additional Motor Accident Claims Tribunal (F.T.C.), Baloud, District Durg (C.G.) in Motor Accident Claim Case No.05/2007.
2. Vide the said impugned award, the Tribunal in an injury case under Section 166 of the Motor Vehicles Act has awarded the compensation of Rs.78,014/- along with interest @ 6% per annum from the date of application.
3. The liability of payment of compensation has been fastened upon the respondent No.3/Insurance Company.
4. So far as the accident, the resultant injuries and the vehicle involved in the accident and the same being insured by the respondent No.3/Insurance Company are not in dispute and therefore this court reference from giving the details of the accident.

5. The contention of the counsel for the appellant is that, the amount of compensation awarded of Rs.78,014/- is incorrect in as much as there appears to be a clerical error for the reason, that the Tribunal has awarded the compensation of Rs.28,014/- towards medical expenses, Rs.3,000/- towards nutritional food, Rs.2,000/- towards engagement of attendant, Rs.10,000/- towards pain and suffering, Rs.35,000/- towards future loss of income and Rs.10,000/- towards loss of earning during the four months period of treatment totaling Rs.88,014/-. However, it appears that due to some clerical error, the amount reflected in the operative part of the award is Rs.78,014/- instead of Rs.88,014/-.

6. The counsel for the Insurance Company fairly admits, that there appears to be a clerical error in the impugned award.

7. The award thus stands modified and it is held, that the award quantified by the Tribunal has to be read as Rs.88,014/- instead of Rs.78,014/-.

8. Further contention of the counsel for the appellant is that, the nature of the injury which was sustained by the appellant was grievous in nature and that he had to undergo couple of surgeries for his treatment and that he was hospitalized for almost a month and hence the compensation awarded by the Tribunal is on the lower side and same deserves suitable enhancement.

9. The counsel for the Insurance Company however on the issue of enhancement submits, that the claimant have not been able to produce sufficient material so far as the permanent disability if any, which has been suffered by the appellant. Neither is there any document to show, that he had incurred more medical expenses than what has already been awarded by the Tribunal.

10. Likewise, the doctor who has been examined have also not supported the case of the claimant so far as any disability which must have occurred because of the injuries which have been suffered by the claimant and thus prayed for the rejection of the appeal upholding the award passed.

11. Having heard the rival contentions put forth on either side and on perusal of record, it would be relevant to consider the deposition of Dr.Beena Chaterjee who was examined on behalf of the claimant who has specifically deposed before the Tribunal, that the appellant had received injuries on the intestine, both the small as well as large intestine which got damaged and that there was couple of surgeries required for the treatment and that he was hospitalized for about a month for his treatment.

12. In view of the same this court is of the opinion, that though there may not be medical proof of the disability, but there must have definitely been some amount of deficiency in the power to work on part of the appellant by virtue of the surgeries that he had to undergo.

13. Considering the facts of the case this court is of the opinion, that ends of justice would meet if the claimant is awarded an additional amount of Rs.50,000/- in addition to what has already been awarded by the Tribunal. It is ordered accordingly, that the total amount of compensation payable to the claimant would be Rs.1,38,014/- instead of Rs.88,014/- as assessed by the Tribunal. The said enhanced amount shall also carry interest at the same rate as has been awarded by the Tribunal.

14. The appeal of the claimant thus stands allowed and disposed off.

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

Sumit