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HIGH COURT OF CHHATTISGARH, BILASPUR**Judgment Reserved on: 23/12/2016****Judgment Delivered on : 20/01/2017****Miscellaneous Appeal (C) No. 222 of 2010**

National Insurance Company Limited, Gondia, Through Branch
Manager, Regional Office, Station Road, Durg, Tahsil & District
Durg, Chhattisgarh.

---- Appellant**Versus**

1. Girish Chandra Sharma, aged 47 years, S/o Late R.S. Sharma, R/o Baigapara (Shitla Mandir Road) Durg, Tahsil & District Durg, Chhattisgarh.
2. Umesh Sendre, aged 23 years S/o Biharilal Sendre, R/o Mohan Tola, Thana-Jamgaon, District Gondia (Maharashtra) Truck No.MH-31AP/3907- Driver
3. Kantilal Agrawal, aged 50 years, S/o Banwarilal Agrawal, R/o Sakin Aamgaon Salekasa Road, Thana – Aamgaon, District Gondia (Maharashtra) Truck No. MH-31AP/3907 – Owner.

---- Respondents

For Appellant	:	Shri Anand Kumar Gupta, Advocate.
For Respondent No.1	:	None.
For Respondents No.2 & 3 :		Shri Praveen Dhurandhar, Advocate.

Hon'ble Shri Deepak Gupta, Chief Justice**C.A.V. Judgment**

1. This appeal by the Insurance Company is directed against the award dated 30.11.2009, passed by Eleventh Additional Motor Accident Claims Tribunal (FTC), Durg (hereinafter referred to as "the Tribunal") in Claim Case No.97 of 2008.

2. At the outset, it may be stated that the Insurance Company was granted permission to contest the claim on all grounds in terms Section 170 of the Motor Vehicles Act, 1988.
3. Claimant Girish Chandra Sharma is an Advocate. The case of the Claimant is that on 08.04.2008, when he was returning in his Maruti Alto Car from Rajnandgaon to Durg, there was a heavy traffic coming from the opposite side near the bridge on the river Shivrath. A Maruti Swift Car was in front of the car of the Claimant. He stopped his car behind the Maruti Swift Car. Behind the car of the Claimant, one Bolero vehicle stopped. In the meantime, the offending vehicle i.e. the Truck bearing registration No.MH-31AP/3907 came from behind. It was being driven in a high speed and in a rash and negligent manner. The Truck hit the Bolero and the Bolero hit the car of the Claimant, as a result of which, the car of the Claimant hit the Maruti Swift car standing before it. The claim relates to damages to the car.
4. According to the Claimant, he spent Rs.81,284/- on the repair of his car. He claimed own damage claim with his Insurance Company, but he received only received Rs.57,000/-. He, therefore, claimed that he was entitled to the balance amount of 24,284/-. According to the Claimant, for 55 days till his car was repaired, he had to hire another car @ Rs.1,000/- per day and he spent Rs.55,000/- for this purpose. He also claimed Rs.20,000/- as interest. According to the Claimant, he also suffered mental agony for which he claimed Rs.50,000/- and Rs.1,250/- for filing of the claim and for obtaining copies of various documents etc. The Claimant, in all, claimed a total sum of Rs.1,50,498/-. The learned Tribunal awarded Rs.24,248/- towards repairing charges, Rs.500/- towards towing charges, Rs.55,000/- for hiring charges @ Rs.1,000/- per

day for 55 days, and Rs.25,000/- for mental agony i.e. a total sum of Rs.1,04,748/-. Hence, this appeal.

5. In a case of property damage, the Claimant is not entitled to consequential loss. The Claimant is only entitled to actual loss suffered by him. There is no question of mental agony in the case of loss to the property. Therefore, the learned Tribunal gravely erred in awarding Rs.55,000/- towards hiring of another car and Rs.25,000/- for mental agony. It would also be pertinent to mention that the story of the Claimant that he had to hire a vehicle at the rate of Rs.1,000/- per day is totally unbelievable.
6. In view of the above, the appeal is allowed and the compensation awarded by the learned Tribunal is reduced from Rs.1,04,748/- to Rs.24,248/-. On this amount, the Claimant shall also be entitled to interest @ 8% per annum from the date of filing of the claim petition till payment/ deposit of the compensation amount.
7. Send down the records forthwith.

Sd/-
(Deepak Gupta)
CHIEF JUSTICE