

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**MAC No. 674 of 2010**

Mathew Thomas, S/o. Togan Thomas, aged 45 years, R/o. Near Murga Chowk, SOS Hostel, CISF Bhilai, District Durg Chhattisgarh

---- Appellant**Versus**

1. Davendra Kumar, aged 44 years, R/o. C-12/CHPL Dream Homes, Ansh Gola Hospital Junwani, P.S. Supela, Bhilai, District Durg Chhattisgarh.
2. Branch Manager, United India Insurance Company, Opposite to Krishna Complex, Raipur, Chhattisgarh

----Respondents

For Appellant	:	Mr. Rajesh Jain, Advocate (Amicus appointed by the Court)
For Respondent No.2	:	Mr. H.B. Agrawal, Sr. Advocate along with Mr. A. L. Singroul, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order on Board****14/09/2017**

1. None for the appellant, when the matter is called. Considering the fact that it is an appeal of year 2010, this Court feels it fit for deciding the appeal taking assistance of Mr. Rajesh Jain, Advocate present in the Court.
2. Heard on I.A. No.1, which is an application for condonation of delay. Considering the reasons assigned in the application and finding them to be satisfactory, I.A. No.1 is allowed and delay of 112 days in filing the appeal stands condoned.
3. Present is an appeal by the claimant under Section 173 of Motor Vehicles Act assailing the award dated 03.08.2009, passed by the 8th Additional Motor Accident Claims Tribunal (F.T.C.) Durg, Chhattisgarh, in claim case No. 219/2008. Vide the said impugned award the Tribunal in a claim case under Section 166 of Motor Vehicles Act has awarded a compensation of Rs. 31,500/- with interest @ 6% per annum.

4. The present is an appeal by the claimant seeking for enhancement in the compensation. According to Mr. Jain, the appellant had received multiple injuries on his body in as much as his clavicle bone was fractured apart from that he had received injuries on his head and also there was stiffness on his hip joint, which has also been proved by the AW/2- Dr. Akhilesh Yadav. He submits that there is a clear evidence which has come on record that the appellant was hospitalized for a considerable period of time and during this period he had undergone considerable pain, suffering and also mental agony. He further submits that the Doctor has also deposed that the injured appellant had suffered permanent disability of 10% and the Tribunal has failed to consider the loss of earning capacity of 10%, which the appellant has suffered.
5. The counsel for the Insurance Company however opposing the appeal submits that, it is a case, where the appellant is a government employee and he has got all his salary intact and there is no loss of income and further the services of the appellant is pensionable service and as such he would not suffer any financial implication and prayed for dismissal of the appeal.
6. Having heard the contentions put forth on either side and on perusal of the record, this Court is of the opinion that from the statement of the Doctor as also that of claimants there definitely has been grievous injuries sustained by the appellant, though he has in due course of time recovered, but has deposed of his having suffered disability to the extent of 10%. Without entering into the merits of the case, this Court is of the opinion that ends of justice would meet if the appellant is granted an additional compensation of Rs.50,000/- in addition to what has already been awarded by the Tribunal. The enhanced amount shall also carry interest at the same rate as has been awarded by the Tribunal.
7. We render a word of appreciation to Mr. Rajesh Jain for providing legal assistance. Since Mr. Jain was assisting the Court as an amicus curie, the High Court Legal Services Authority, Bilaspur is

directed to send the judgment of this case to the Secretary, District Legal Services Authority, Durg, who, in turn, may make all endeavors in serving the copy to the appellant at the earliest.

8. The appeal thus stands allowed and disposed of accordingly.

Sd/-
(P. Sam Koshy)
Judge

Ved