

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MISC. APPEAL (C) NO. 1321 OF 2017

Smt. Lata Bai Borwanshi, W/o Shiv Kumar Borwanshi, aged about 35 years, R/o Village Sikolabhatha, Prem Nagar, Durg, Tahsil and District Durg (C.G.)

... Appellant

versus

1. Madhukar Verma, S/o Babulal Verma, aged about 28 years, R/o Village and P.S. Ghumka, District Rajnandgaon (C.G.) (Driver of offending vehicle Maximo Mahindra Number CG08-L-2048)

2. Rohit Verma, S/o Sukalu Verma, R/o Village and P.S. Ghumka, District Rajnandgaon (C.G.) (Owner of offending vehicle Maximo Mahindra Number CG08-L-2048)

3. Ifco Tokiyo General Insurance Company Limited, Branch Office M.S. Silver Plaza, in front of Udyog Bhawan, Ring Road No.1, Raipur (C.G.) (Insurer of offending vehicle Maximo Mahindra Number CG08-L-2048)

... Respondents

For Appellant	:	Mr. Syed Majid Ali, Advocate.
For Respondent No.3	:	Mr. Ghan Shyam Patel, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

07/11/2017

1. The present is a claimant's appeal under Section 173 of the Motor Vehicles Act, 1988, seeking for enhancement of the compensation awarded by the Seventh Additional Motor Accident Claims Tribunal, Durg, on 17.3.2017, in Motor Accident Claim Case No. 84/2014.

2. Vide the impugned award, the learned Tribunal, in an injury case, under Section 166 of the Motor Vehicles Act, has awarded a compensation of Rs. 1,08,800/- to the injured-claimant with interest thereon at the rate of 6% per annum from the date of presentation of claim application.

3. Learned counsel for the appellant-claimant submits that the Tribunal has not properly considered the disability aspect and the nature of injury suffered and has awarded a compensation which is on the lower side. He further submits that though a compensation of Rs.1,08,800/- has been awarded by the learned Tribunal, but of which about Rs.75,000/- is towards

the medical expenses incurred. Thus, under the head of disability and other heads the learned Tribunal has not awarded sufficient compensation. He thus prayed for the award to be suitably enhanced.

4. Learned counsel for respondent no.3-insurance company however opposing the appeal submits that it is a case where the doctor has not been examined and the disability part has not been properly established, thus, in the given circumstances, the award being just and reasonable the same does not warrant interference and the appeal deserves to be rejected.

5. Having heard the contentions put forth on either side and on perusal of record, since the accident is admitted, the injury is admitted and the vehicle involved in the accident is also not in dispute, further the vehicle also being duly insured with the respondent no.3-insurance company also being not in dispute, this Court considering the nature of injury sustained by the claimant and the admitted fact of the claimant incurring about Rs.75,000/- towards medical expenses, conscious of the fact that there is no medical evidence to prove the disability, awards a lump sum compensation of Rs.25,000/- in addition to what has already been awarded by the Tribunal, making the total compensation payable at Rs.1,33,800/- instead of Rs.1,08,800/-.

6. It is thus ordered that the claimant shall be entitled for a total compensation of Rs.1,33,800/- and the enhanced amount shall also carry interest at the same rate as has been imposed by the learned Tribunal.

7. The appeal stands allowed and disposed of accordingly.

Sd/-
(P. Sam Koshy)
Judge