

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Misc. Appeal (C) No. 862 of 2011**

Smt. Prapti Dewangan W/o Umashankar Dewangan, R/o village -
Bhedikala, PS Lalbag, Rajnandgaon, District Rajnandgaon (CG)

---- Appellant**Versus**

1. Jaykaran Verma S/o Surendra Kumar Verma, R/o Semhara, Post Gatapar,
PS & Tahsil Dongargarh, District Rajnandgaon, C.G.
2. Surendra Kumar Verma S/o Bishal Verma, R/o village Semhara, Post
Gatapar, PS Dongargarh, District Rajnandgaon, C.G.
3. National Insurance Company Limited, through the Branch Manager, Branch
Office, Kamthi Line, Rajnandgaon (CG)

---- Respondents

For Appellant	:	Shri A. L. Singroul, Advocate
For Respondent no. 3	:	Shri Dashrath Gupta, Advocate

and**Misc. Appeal (C) No. 870 of 2011**

National Insurance Company Limited, through its Branch Manager, Branch
Office, Kamthi Line, Rajnandgaon (CG)

---- Appellant**Vs**

1. Smt. Prapti Dewangan W/o Umashankar Dewangan, R/o village -
Bhedikala, PS Lalbag, Rajnandgaon, District Rajnandgaon (CG)
2. Jaykaran Verma S/o Surendra Kumar Verma, R/o Semhara, Post Gatapar,
PS & Tahsil Dongargarh, District Rajnandgaon, C.G.
3. Surendra Kumar Verma S/o Bishal Verma, R/o village Semhara, Post
Gatapar, PS Dongargarh, District Rajnandgaon, C.G.

---- Respondents

For Appellant	:	Shri Dashrath Gupta, Advocate
For Respondent no. 1	:	Shri A. L. Singroul, Advocate

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

08/12/2017

These are the two appeals arising out of the same award dated 05.04.2011 passed by the 1st Additional Motor Accident Claims Tribunal, Rajnandgaon (CG) in Claim Case No. 85/2009. Vide the impugned award, the Tribunal has in an injury case under Section 166 of the MV Act, awarded a compensation of Rs.1,99,600/- with interest @ 6% per annum from the date of application.

2. MAC No. 862/11 is an appeal by the claimant seeking enhancement of compensation and MAC No. 870/11 is an appeal by the Insurance Company questioning the liability party.

3. So far as the appeal of the Insurance Company is concerned, counsel for the Insurance Company submits that the driver of the offending vehicle did not have an effective licence on the date of accident. He submits that the offending vehicle in the instant case is a Tata DI 207 bearing registration No. CG 08B 1812 which is a light goods carrying vehicle and the driver in the instant case namely Jaykaran Verma had a licence only to drive a light motor vehicle without any endorsement to drive a transport vehicle. Thus, there is a breach of policy condition for which the Insurance Company should not have been saddled with the liability of payment of compensation and prayed for the award to be suitably modified.

4. This contention of the counsel for the Insurance Company is no longer sustainable for the reason that the issue so raised stands squarely covered by the recent larger Bench decision of the Hon'ble Supreme Court in the case of **Mukund Dewangan Vs. Oriental Insurance Company Limited** reported in **AIR 2017 SC 3668**. Considering the judgment of the Supreme Court, the appeal of the Insurance Company fails and is accordingly dismissed.

5. So far as the appeal of the claimant is concerned, Shri A. L. Singroul counsel appearing for the claimant submits that the claimant in the instant case had received grievous injuries on her leg and was operated upon and steel plate was also inserted for which she had undergone considerable pain and suffering. Considering this, the amount of compensation awarded is too meager an amount. He submits that the doctor has assessed the disability at 50% whereas the Tribunal has assessed the disability at 10% while quantifying the compensation. This also is on the lower side. Thus, prayed for suitable enhancement of the compensation.

6. Counsel for the Insurance Company, so far as the enhancement is concerned, submits that the award is just and reasonable as it is based upon the evidence which has come on record. Thus, prayed for rejection of the appeal of the claimant.

7. Having heard the contention put forth on either side and on perusal of the nature of injury sustained by the claimant particularly the hospitalization and the surgery which was required and the deposition of the doctor who has stated that there is a stiffness on her knee, this Court is of the opinion that ends of justice would meet if the claimant is granted an additional amount of Rs.50,400/- in addition to what has already been awarded by the Tribunal to make the total compensation payable to the claimant at Rs.2,50,000/- in stead of Rs.1,99,600/-. It is ordered accordingly. The enhanced amount shall also carry interest at the same rate as awarded by the Tribunal.

8. With the aforesaid observation, the appeal of the claimant i.e. MAC No.862/11 stands allowed and the appeal of the Insurance Company i.e. MAC No.870/11 stands dismissed.

Sd/-
(P. Sam Koshy)
JUDGE