

HIGH COURT OF CHHATTISGARH AT BILASPUR**MAC No.1169 of 2010**

Smt.Shanta Bala Jhon W/o L.Jhon, aged about 40 years, R/o Mungeli Road, Sakari, Police Station, Chakarbhata, Tahsil & District Bilaspur (C.G.).

---Appellant

Versus

1. Santosh Rao Dhadge S/o Ram ji Rao, aged about 34 years, R/o Kududand, Milan Chowk, Police Station Civil Line, Tahsil & District Bilaspur (C.G.).
2. Shiv Kumar Singh S/o D.P.Singh, R/o Beside Ajeet Hotel Telipata, Police Station – City Kotwali, Tahsil & District Bilaspur (C.G.).
3. Bajaj Allianz General Insurance Co.Ltd., Office At :- Opp.High Court, Bilaspur, Tahsil & District Bilaspur (C.G.).

---Respondents

For appellant	:	Shri Hemant Gupta, Advocate.
For resp.No.3/ Insurance Company.	:	Shri Ghanshyam Patel on behalf of Shri Abhishek Sinha, Advocate.

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

15/11/2017

1. Present is an appeal by the claimant under Section 173 of the Motor Vehicles Act assailing the award dated 31/07/2010 passed by the learned 9th Additional Motor Accident Claims Tribunal (F.T.C.), Bilaspur (C.G.) in Claim Case No.103/2010.
2. Vide the impugned award, the Tribunal in an injury case under Section 166 of the Motor Vehicles Act has awarded a compensation of Rs.1,31,539/- with interest @ 6% per annum from the date of application.

3. The contention of the counsel for the appellant is that, the claimant in the instant case had raised the medical bills in respect of her treatment which she has undertaken at the Apollo Hospital, Bilaspur and for which bills were also produced before the Tribunal and which were marked as Exhibit-A/9 & A/10 which have not been considered by the Tribunal only on the ground, that the author of the documents has not been examined. Thus prayed for grant of suitable relief in this regard. He further submits, that the claimant would also be entitled for salary for the period she underwent for the treatment as she was a government employee.

4. As regards first part of the claim i.e. non-granting of the medical expenses incurred at the Apollo Hospital only on the ground of author of the documents not been examined, this court is of the opinion that the said view of the Tribunal is not justified and proper in as much as once when the accident is not in dispute and the resultant injury also is not in dispute, it is to be presumed that the claimant had undertaken the treatment at Apollo Hospital, Bilaspur. Even otherwise, it is beyond comprehension that, the institution like Apollo Hospital would issue bills in favour of the injured claimant without providing any treatment in this regard. Further the bills are also of the same period. Thus it is held, that the claimant would also be entitled for the amount incurred towards medical expenses as per Annexure A/9 and A/10. It is ordered accordingly that the claimant shall be entitled for an amount of Rs.2,81,262/- in addition to what has already been awarded by the Tribunal.

5. As regards the compensation for the absence from duty is concerned, since, there is no sufficient evidence to show that the claimant had gone on a leave without pay during the course of the treatment, the said claim cannot be accepted as it could also be a case where the claimant must have had a medical leave in her credit and she must have availed. Thus, this claim of the claimant stands negated.

6. Thus, the appeal of the claimant stands allowed to the extent of the claimant being entitled for an additional amount of Rs.2,81,262/- towards medical expenses in addition to Rs.1,31,539/- awarded by the Tribunal. Thus the claimant shall be entitled for a total compensation of Rs.4,12,801/- instead of Rs.1,31,539/-. The said enhanced amount shall also carry interest at the same rate as has been awarded by the Tribunal.

7. The appeal stands allowed and disposed off.

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

Sumit