

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Misc. Appeal (C) No. 898 of 2017**

Nilesh @ Milesh Kumar Nirmalkar S/o Om Prakash Nirmalkar, aged about 20 years, R/o Village Post Tamaseoni, Police Station Arang, District Raipur, Chhattisgarh(Claimant)

---- Appellant**Versus**

1. Salikram Soni S/o Shri Lakhanlal Soni through Smt. Hemlata Jain W/o Late M. C. Jain, R/o Main Road Indira Chowk Arang, Tahsil Arang, Police Station Arang, District Raipur, Chhattisgarh(Driver of Offending vehicle bus bearing Registration No. C.G.04 Z A 0405)
2. Smt. Hemlata Jain W/o Late M. C. Jain, R/o Main Road Indira Chowk Arang, Tahsil Arang, Police Station Arang, District Raipur, Chhattisgarh(Owner of offending vehicle bus bearing Registration No. C.G.04 Z A 0405)
3. The New India Insurance Company Limited, Kachhari Chowk, Madina Building Raipur, Tahsil and District Raipur, Chhattisgarh(Insurer of offending vehicle bus bearing Registration No. C.G.04 Z A 0405)

---- Respondents

For Appellant : Shri C. K. Sahu, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****03/07/2017**

Challenge in the present appeal is the award dated 09.02.2017 passed by the 7th Additional Motor Accident Claims Tribunal, Raipur in Claim Case No.553/2015 whereby the Tribunal in a proceeding under Section 166 of the Motor Vehicles Act has allowed the claim application of the claimant and awarded an amount of Rs.95,000/- as compensation to him. The present appeal is for enhancement of the compensation awarded by the Tribunal.

2. According to the appellant, he had met with an accident on 02.05.2015 at around 4 p.m. when the bus in which he was travelling bearing registration no. CG04 ZA 0405 turned turtle and in the course, his right leg got fractured. On account of the said injury, the appellant filed an application under Section 166 of the Motor Vehicles Act before the 7th Additional Motor Accident Claims Tribunal, Raipur in Claim Case No.553/2015.

3. The Tribunal taking into consideration the evidences which have come on record vide its impugned judgment dated 09.02.2017 reached to the conclusion that since the appellant has incurred medical expenses of Rs.90,425/-, the entire bill has been accepted to be paid by the Insurance Company. In addition, the Tribunal considering the overall factual matrix of the case held that the appellant would be entitled for the total amount of Rs.95,000/- as compensation.

4. It is this award which is under challenge in the present appeal.

5. Counsel for the appellant submits that there was a fracture on the right thigh of the appellant on account of which he had sustained great loss both financially as well as physically and therefore, the amount of compensation awarded by the Tribunal is on the lower side and the same requires to be enhanced.

6. However, on perusal of the record particularly the contents of paragraph 13 of the impugned judgment would clearly reflect that except the statement made by the appellant, he has not adduced any evidence of a doctor or any proof in respect of the disability that he has sustained. No certificate or evidence in this regard has been adduced by the appellant even to the extent of showing that he was under continuous treatment and he has to incur further medical expenses. In the absence of such evidence on the part of the appellant, this Court does not find any good ground calling for interference with the impugned award. It is well settled position of law so far

as the claim for compensation is concerned that the claimant would have to establish his case by leading cogent medical evidence to establish the disability part which in the instant case is missing.

7. For the aforesaid reasons, the present appeal being devoid of merits, the same deserves to be and is accordingly dismissed.

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