

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****MAC No. 1188 of 2013**

- Premlal Mahapatra S/o Bharul Ram Mahapatra, Occupation - Labour, aged about 50 years, R/o Near Aasha Deep School, Changorabhata, Police Station - D.D. Nagar, Post Office - Raipur, Raipur, District Raipur (C.G.)

**---- Appellant****Versus**

1. Abdul Khan S/o Rahim Khan, aged about 48 years, R/o village - Sankra, Post Office & Police Station - Sankra, Tahsil - Pithoura, District - Mahasamund (C.G.)  
(Driver of vehicle Pick-up bearing registration No.CG/06/B4815)
2. Smt. Shakuntala Devi Agrawal W/o Kashmiri Lal Agrawal, R/o village - Sankara, Post Office & Police Station - Sankra, Tahsil - Pithoura, District Mahasamund (C.G.)
3. The Oriental Insurance Company Limited, through Divisional Manager, Divisional Office, Madina Building, Kutchery Chowk, Jail Road, Post Office - Raipur, Police Station - Gol Bazar, Raipur, Tahsil & District Raipur (C.G.)  
(Insurer of vehicle Pick-up bearing registration No.CG/06/B4815)

**---- Respondents**


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|-----------------|---|-----------------------------------------|
| For Appellant   | : | Shri Shivendu Pandya, Advocate.         |
| For Respondents | : | None even in the 4 <sup>th</sup> round. |

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**Hon'ble Shri Justice Pritinker Diwaker**  
**Hon'ble Shri Justice Ram Prasanna Sharma**

**Order On Board****By Pritinker Diwaker, J****26/07/2017**

1. This appeal filed by the claimant/appellant arises out of the award dated 27.07.2013 passed by 4<sup>th</sup> Motor Accident Claims Tribunal (for short the "Tribunal") Raipur in Claim Case No.342/2011 whereby in an injury case compensation of Rs.45,000/- has been awarded to the claimant/appellant herein.

2. Facts of the case, in brief are that on 20.10.2010 the claimant along with his friend was going to Zalap from Salakhpani on scooter as pillion rider. When he reached near Sankara Petrol Pump N.H. No.53, the offending vehicle i.e. Pick-up bearing registration No.CG-06-B-4815 being driven by respondent No.1 herein rashly and negligently, came from opposite direction and dashed the scooter of the claimant, as a result of which, he suffered number of injuries including fracture of right tibia and fibula bone. The appellant/claimant was hospitalized in Dr. Ambedkar Hospital for 23 days and as per certificate Ex.P/20, he suffered 40% disability. A claim case was filed by the claimant/appellant claiming compensation to the tune of Rs.13,00,000/- under various heads, *inter alia*, pleading that after the accident, he was taken to Dr. Ambedkar Hospital, Raipur where his right leg was operated and rod was inserted in his leg. It has been further pleaded that due to the said accident, the claimant is unable to perform his day to day work and there is gross downfall in his income.

03. Pleadings of the claimant has, however, been denied by the respondent/insurance company.

04. The Claims Tribunal by the impugned award has awarded a compensation of Rs.45,000/- to the appellant under various head such as pain & suffering, special diet, attendant and expenses incurred in the treatment. It is this award which has been challenged by the appellant in this appeal.

05. Counsel for the appellant submits that:-

- The Claims Tribunal has erred in law in awarding very negligible compensation for the injuries sustained by the claimant.
- No amount has been granted under the head "future treatment". The sum awarded under the head "pain & suffering" is also on the lower side.
- That the amount awarded under conventional heads is also quite inadequate.

06. Heard counsel for the appellant and perused the material available on record.

07. Admittedly, the claimant/appellant has suffered fracture of right tibia and fibula bone, remained hospitalized for 23 days in Dr. Ambedkar Hospital, Raipur, and as per record (disability certificate Ex.P/20), he suffered 40% disability. Considering the fact that during his admission in the hospital, his right leg was never operated and it was a

simple fracture, we are not inclined to accept the disability certificate Ex.P/20 that any permanent disability has been suffered by the appellant. Further, the Doctor who issued this certificate (Ex.P/20) has not specifically stated that the claimant/appellant suffered permanent disability. However, under various heads the Tribunal has awarded inadequate compensation.

08. Thus, keeping in view all the above things, this Court is of the view that the amount awarded by the Claims Tribunal is on lower side and requires reconsideration. The claimant/appellant is entitled for compensation in the following manner:-

| Head                                | Amount awarded | Amount enhanced      |
|-------------------------------------|----------------|----------------------|
| For suffering grievous injuries     | Rs.25,000/-    | Rs.50,000            |
| For Medical Expenses                | Rs.10,000/-    | Nil                  |
| For Future Treatment                | Nil            | Rs.5,000/-           |
| For Pain and Suffering              | Rs.3,000/-     | Rs.25,000/-          |
| For Special Diet                    | Rs.5,000/-     | Rs.10,000/-          |
| For Conveyance                      | Rs.2,000/-     | Rs.10,000/-          |
| For Loss of income during treatment | Nil            | Rs.10,000/-          |
|                                     | <b>Total</b>   | <b>Rs.1,10,000/-</b> |

9. On the basis of aforesaid discussion, the claimant/appellant is held entitled for a total compensation of Rs.1,10,000/-. Since, the Claims Tribunal has already awarded Rs.45,000/-, after deducting the said amount, the claimant/appellant is entitled for enhanced amount of

Rs.65,000/- (1,10,000 - 45,000). This additional amount of compensation shall carry interest @ 9% p.a. from the date of filing of claim application till realization. The amount received by the claimant, if any, shall be adjusted in the enhanced sum.

10. In the result, the appeal is allowed in part and the award impugned stands modified to the extent indicated above.

Sd/-

**(Pritinker Diwaker)**  
**Judge**

Sd/-

**(Ram Prasanna Sharma)**  
**Judge**