

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Misc. Appeal (C) No. 1049 of 2015**

K. Prakash Rao S/o K. Narsingh Rao, aged about 45 years, R/o Housing Board Colony, Bodhghat, Jagdalpur, District Bastar, Chhattisgarh (Claimant)

---- Appellant**Versus**

1. Gajendra Puri S/o Himanchal Goswami, aged about 23 years, R/o Housing Board Colony, Bodhghat, Jagdalpur, District Bastar, Chhattisgarh (Driver)
2. Smt. Sarita Goswami W/o Sh. Himanchal Puri Goswami, aged about 44 years, R/o Housing Board Colony, Bodhghat, Jagdalpur, District Bastar, Chhattisgarh (Owner)
3. Cholamandalam M/s. General Insurance Company Limited, IIInd Floor, Simran Tower, in front of L I C Building Pandri, Raipur, Chhattisgarh (Insurance Company)

---- Respondents

For Appellant	:	Shri Manay Nath Thakur, Advocate
For Respondent no.3	:	Shri Ghanshyam Patel, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****18/09/2017**

None appeared for the appellant. In the absence of any representation on behalf of the appellant we took the assistance of Shri Manay Nath Thakur, Advocate for assisting the Court for disposal of the appeal. Considering the fact that the appellant has not represented through a lawyer engaged by him, let the Secretary, High Court Legal Aid Services send a copy of this order to the Secretary, District Legal Services Authority, Jagdalpur who in turn shall ensure serving of this order upon the appellant at the earliest.

2. Present is an appeal under Section 173 of the Motor Vehicles Act assailing the award dated 14.05.2015 passed by the 2nd Additional Motor Accident Claims Tribunal, Jagdalpur in Motor Accident Claim Case No. 12/2015, whereby the Tribunal has awarded a total compensation of Rs.65,000/- to the appellant in an injury case.

3. The claim of the appellant was that when he was going on his bicycle was hit by a Scorpio bearing registration No. CG-17 GA 5555 resulting in grievous injuries. According to the appellant, he had suffered multiple injuries for which he was initially hospitalized at Maharani Hospital Jagdalpur for two days and subsequently he was shifted to Surya Hospital Vishakapatnam where he underwent treatment for more than one month. According to the appellant, he had suffered grievous injuries including fracture on the right femur bone and also on the 6th rib of his right chest in addition to various other injuries all over the body.

4. A perusal of the record shows that the claimant could not adduce any medical evidence to establish the permanent disability as a result of the injury suffered. Pending the appeal before this Court, the appellant has moved an application for taking additional document on record which is a medical certificate issued by the District Medical Board, Jagdalpur whereby the appellant has been shown suffering from 60% of permanent disability. This document does not seem to have been produced before the Tribunal during the course of the case being proceeded before the Tribunal for the reason that this document was obtained on 27.04.2015 whereas the impugned award was passed on 14.05.2015 i.e. immediately before the impugned award was passed. It was necessary for the appellant to bring this document before the Tribunal and should have proved it by producing a competent witness i.e. a doctor to establish the injury sustained and the disability suffered.

5. Considering the total facts and circumstances of the case, this Court is of the opinion that ends of justice would meet if the impugned award is set aside and the case is remitted back to the Tribunal for reconsideration of the same afresh after permitting the appellant to produce the medical certificate and also giving him an opportunity to prove injury and medical disability and also to produce any document in respect of the medical expenditure that he had incurred during the course of his treatment which has not been reimbursed. It is ordered accordingly.

6. Considering the fact that it is a case where the accident took place on 19.06.2014, it is expected that the Tribunal shall make all endeavour to decide the case at the earliest. The Registry is directed to forthwith send the records back to the Tribunal. The Insurance Company, the owner and the driver of the vehicle shall also have an opportunity to adduce evidence in rebuttal if any.

7. The appeal stands disposed of.

Sd/-
(P. Sam Koshy)
JUDGE