

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MISC. APPEAL NO. 715 OF 2005

Rameshwar, aged 11 years, S/o Sidhram, through Siddhram, aged 41 years, S/o Dhaniram Sidar, R/o Village Umreli, Tahsil Kartala, District Korba (C.G.)

... Appellant/Claimant

Versus

1. Suresh Kumar Rathore, age 30 years, S/o Budhram Rathore, Village Bhurkadih, Post Jharna, Tahsil & P.S. Baradwar, District Janjgir-Champa (C.G.)
2. Gowardhan Rathore, S/o Kedarnath Rathore, Village: Kachanda, Tahsil & P.S. Baradwar, District Janjgir-Champa (C.G.)
3. New India Assurance Co. Ltd., through Divisional Manager, Branch Office, Rajendra Nagar, District Bilaspur (C.G.)

... Respondents

For Appellant	:	Mr. Mukesh Sharma, Advocate.
For Respondents No. 1 & 2	:	Mr. Dashrath Kushwaha, Advocate, under instructions of Mr. P.K. Patel, Advocate.
For Respondent No.3	:	Mr. Sudhir Agrawal, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

18/09/2017

1. The present is a claimant's appeal under Section 173 of the Motor Vehicles Act, 1988, seeking for enhancement of the compensation awarded by the Additional Motor Accident Claims Tribunal, Korba, in Claim Case No. 143/2004.
2. Vide the said impugned award, the Tribunal, in a proceeding under Section 166 of the Motor Vehicles Act, has granted a compensation of only Rs.8000/- to the claimant.
3. Learned Counsel for the appellant-claimant has produced certain documents and photographs showing that the injuries which were suffered by the appellant had subsequently got infected and developed carcinoma and ultimately his left leg had to be amputated above the knee. He submits that it is a case where the appellant-Rameshwar met with an accident on 7.2.2003 when while he was crossing a road was hit by a Mini Bus No.

CG12-ZA/0120 which was driven by respondent no.1-Suresh Kumar Rathore, owned by respondent no.2-Gowardhan Rathore and insured with respondent no.3-New India Assurance Co. Ltd.

4. In the light of the subsequent developments, learned counsel for the appellant submits that the matter may be remitted back to the Tribunal so that he could produce appropriate evidence both oral and documentary to substantiate his contentions with which the compensation payable to the appellant can be sought to be enhanced.

5. Learned counsel appearing for respondent no.3-insurance company however submits that the insurance company would have to get the contentions stated by the appellant verified and appropriate right may be reserved for the insurance company to verify as well as to lead proper evidence in rebuttal.

6. Be that as it may, taking into consideration the contentions put forth by the counsel for the appellant and also looking to the condition of the appellant where his left leg has got amputated which is alleged to have occurred because of the injuries, this Court is of the opinion that ends of justice would meet if the matter is remitted back to the Tribunal and the Tribunal is directed to permit the appellant to produce subsequent additional developments that have transpired, by moving amendment applications to amend the pleadings of the claim case and the respondents in turn would also have the right for consequential amendments and to lead evidence in this regard. The Tribunal shall make all endeavours, considering the seniority of the case and the date of accident, to decide the case on priority basis at the earliest. It is ordered accordingly.

7. Since the parties are present before this Court, they are directed to remain present before the concerned Tribunal on 2.11.2017.

8. Registry is directed to ensure that the records of the case is sent back to the Tribunal concerned at the earliest so that it reaches the Tribunal before the next date of hearing i.e. 2.11.2017.

/sharad/

(P. Sam Koshy)
Judge