

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 1294 of 2016**

Bajaj Allianz General Insurance Company Limited Through Branch Manager, Shivmohan Bhawan, Vidhan Sabha Road, Pandri, Police Station- Pandri, Tahsil And District- Raipur, (Chhattisgarh),.....(Insurer of Bolero- Registration No. CG - 17 - D 0814).

---- Appellant**Versus**

1. Budhman Manikpuri S/o Late Sampat Manikpuri, Aged About 40 Years R/o- Kewti, Police Station- Kondagaon, District- Kondagaon, (Chhattisgarh),.....(Claimant).
2. Sunil Kumar Marskole, S/o Samranlala Marskole, Aged About 41 Years R/o- Bijapur, Near Telephone Exchange, Police Station and District- Bijapur, (Chhattisgarh),.....(Driver and owner of Bolero- Registration No. CG- 17 - D - 0814).

---- Respondents

For Appellant : Shri Rohitashva Singh, Advocate.

SB: Hon'ble Shri Justice P. Sam Koshy**Order On Board****06/07/2017**

1. For the reasons assigned in the application and finding them to be satisfactory, IA No.1 is allowed and delay in filing appeal is condoned.
Heard on admission.
2. The present appeal has been filed against the award dated 17.06.2016 passed by the Additional Motor Accident Claims Tribunal, Kondagaon (in short, the Tribunal) in Claim Case No.24 of 2015. Vide the said award the Tribunal in a case of 75 percent permanent disability, has accepted it as 100 percent disability and awarded a total sum of Rs.5,94,000/-.
3. According to learned counsel for the appellant, the court below has acceded disability to be 100 percent whereas the doctor has certified it to be only 70 percent and thus, the award would require interference to that

extent. He further submits It is not a case of any amputation of leg of the injured person. On the contrary, it is only a case where the left leg of the claimant was fractured and has received disability. Therefore, drawing an inference of 100 percent disability is bad in law.

4. A perusal of impugned award would clearly reflect that in the said accident the injured Budhman Manikpuri had sustained fracture on his left leg and as a result of the said injury subsequently his left leg has been shortened by 5 inches i.e. almost $\frac{1}{2}$ feet. The doctor in his evidence has also deposed that injured would find it difficult to perform labour work as also agricultural field work. The injured in the instant case was a Mason. From the nature of injuries which has been sustained by the injured, it would clearly depict that he would find it very difficult to perform the Masons work due to shorten in the left leg. In view of this, though the disability has been certified to be 70 percent by the doctor, but the net result would be losing total employment and as a consequence loss of total source of income.
5. Thus, if the Tribunal has taken 100 percent disability in such circumstance, the same cannot be said to be illegal, perverse or contrary to the evidence which have come on record.
6. Thus, considering the aforesaid factual matrix of the case, the appeal fails and is hereby dismissed.

Sd/-
(P. Sam Koshy)
Judge