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HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 400 of 2014**

- Hemcharan Sahu S/o Fuduram Sahu Aged About 26 Years R/o Village Salhe, P.S. And Tah. Sarangarh, Distt. Raigarh, Civil & Revenue District Raigarh C.G.

---- Appellant

Versus

1. Firuram Feku S/o Paras Ram Aged About 32 Years (Driver of alleged Vehicle bearing registration No.C.G.04-HC/2870)
2. Milan Singh Khare S/o Sadhram Aged About 65 Years (Owner of alleged Vehicle bearing registration No.C.G.04-HC/2870)
Both are R/o Village Salkhanda, P.S. And Tah. Basna, Distt. Mahasamund C.G.
3. Ifco Tokiyo General Insu.Co. Branch Office- 347 Third Floor, Lal Ganga Shopping Mall, G.E. Road, Raipur C.G. (Insurer of alleged vehicle bearing registration No.C.G.04-HC/2870)

---- Respondents

For Appellant	:	Shri CK Sahu, Advocate
For Respondent No.1 & 2	:	Shri Shikhar Sharma, Advocate
For Respondent No.3	:	Shri P. Acharya, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****24/07/2017**

1. The present is an appeal filed by the claimants seeking enhancement of the award dated 19.12.2013, passed by the Motor Accident Claims Tribunal, Baloda-Bazar (for short 'the Tribunal') in claims case No.17/2013. By the said impugned award in an injury case, the Tribunal has granted the total compensation of Rs.84000/- to the claimants bifurcation of which is Rs. 65000/- towards medical expenses and special diet incurred by the claimant, Rs.10,000/- towards pain and suffering and Rs.9000/- for the loss of income of three months.

2. The liability for payment of compensation has been fastened upon the insurance company i.e. the respondent No.3.
3. The factual aspects of the case that of accident, the resultant injury sustained by the claimant and the involvement of the offending vehicle are not in dispute. It is also not in dispute that the offending vehicle was duly insured with respondent No.3. The liability part has not been challenged any of the respondents and the same has attained finality. The only issue which has been raised for adjudication is whether the compensation awarded by the Tribunal to the claimant is proper, legal and justified.
4. Counsel for the appellant submits that the appellant has received grievous injury on his right leg and he had also to undergo surgery and in the process steel rods were also to be fixed at the place of fracture. He was under treatment for the period of more than three months and during that period he had undergone pain and suffering and also mental agony. Learned counsel would further submit that the appellant had incurred medical expenses Rs.1,10,000/- and the Tribunal has only awarded compensation of Rs.65000/- and the Tribunal has refused to award further amount on the ground that the claimant could not substantiate the same by leading any cogent evidence. He further, prayed that the some of Rs.10,000/- awarded by the Tribunal under the head of pain & suffering deserves enhancement.
5. Counsel for the respondent however opposes the appeal. The counsel for the respondent submits that the award of the Tribunal is fair and reasonable because it is passed on the basis of evidence which have

come on record, therefore, it cannot be held to be bad in law.

6. Having considered the rival submissions on either side what clearly reflects from the finding of the Court below is the fact that the accident did take place and the appellant sustained injuries from the same is not in dispute. He would also lead evidence to the incident that there was a fracture on the right leg and the appellant had to undergo surgery and in the process steel rods were also to be fixed for the proper cure of his fractured leg. Moreover, the Tribunal itself as reached to the conclusion that for the treatment, the appellant was admitted for about three months, but the refusal to grant the entire medical expenses of Rs.1,10,000/- has not been specifically dealt with except for the fact that there does not seem to be any records in this regard. In the opinion of this Court it would have been proper that the amount of compensation of Rs.1,10,000/- towards medical expenses instead of Rs.65,000/- should have been awarded and it is ordered accordingly. So far as the compensation under the head of pain and suffering is concerned, this Court has no hesitation in reaching to the conclusion that for a period of three months during which the appellant undergone treatment and surgery the appellant must have definitely suffered mental agony, the amount awarded under this head deserves to be enhanced by another 15,000/- to make it to 25,000/- in this head it is accordingly enhanced to Rs.25,000/-. The rest of the award passed by the Tribunal remains intact. Thus, the total compensation payable to the claimants becomes Rs.1,44,000/- instead of Rs.84,000/- in addition to what has been awarded by the Tribunal. It is ordered accordingly. The amount which has been awarded by the Tribunal i.e. the enhanced amount of

Rs.60000/- shall also carry the same rate of interest as has been awarded by the Tribunal.

7. The appeal stands allowed and disposed of.

Sd/-

P. Sam Koshy
Judge

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