

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MISC. APPEAL (C) NO. 1472 OF 2016

Divisional Manager, The New India Insurance Co. Ltd., D.O-II, LIC Building, First Floor, Pandri, Raipur, District Raipur (C.G.), through authorised Signatory, the New India Insurance Company Ltd., Divisional Office Second Floor, Rama Trade Centre, in front of Rajeev Plaza, Bilaspur, District Bilaspur (C.G.)

... Appellant

Versus

1. Rishi Sharma, S/o Kishore Sharma, aged 25 years, R/o Shivaji Park, Saddu, Q. No. J-5, Police Station Pandri, District Raipur (C.G.)
2. Kripal Nishad, S/o Hemram Nishad, R/o Village- Bhawanipur, Police Station Palari, District Balod Bazar (C.G.), present address- near Jora Nala, beside Road, Police Station Pandri, District Raipur (C.G.)
3. Bhupendra Singh Saluja, S/o Late Pritam Singh Saluja, R/o Sagar Sweets, Bus Stand Kharora, Police Station Kharora, District Raipur (C.G.)

... Respondents

For Appellant	:	Mr. B.N. Nande, Advocate.
For Respondent No.1	:	Mr. Praveen Dhurandhar, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

02/08/2017

1. The present is an appeal under Section 173 of the Motor Vehicles Act, 1988, by the Insurance Company assailing the award dated 11.7.2016 passed by the Fourth Additional Motor Accident Claims Tribunal, Raipur, in Claim Case No. 117 of 2013.
2. Respondent No.1/Claimant has also filed a cross appeal under Order 41 Rule 22 of the Code of Civil Procedure, seeking for enhancement of compensation awarded by the Tribunal.
3. Learned Counsel for the Insurance Company raises a point of breach on the part of the owner of the offending Bus inasmuch not having proper fitness certificate at the time of accident and questions the impugned award only on this ground.

4. This Court is not inclined to entertain the appeal of the Insurance Company only on the ground that the amount of compensation awarded being a paltry figure so as to agitate for the same, leaving open the said issue to be decided in an appropriate case. Thus, only on the ground that a meagre compensation has been awarded by the Tribunal and undisputedly the Claimant was a third-party, the appeal of the Insurance Company is not being entertained on merits and the same stands rejected.

5. So far as the cross appeal of the Claimant is concerned, from the factual matrix which surfaced from the impugned award it is evidently clear that the Doctor who has treated the Claimant has not been examined to prove the percentage of disability sustained by the Claimant. Further, it is also the case of the Claimant that he is a government employee working in the EPF department which also would force this Court to infer that during the relevant period he would have definitely got his salary as it has not been claimed by the Claimant before the Tribunal of having lost his salary for that four months' time.

6. For all the aforesaid reasons, this Court does not find any strong case for interfering with the impugned award. Accordingly, the cross appeal of the Claimant also stands rejected.

Sd/-
(P. Sam Koshy)
Judge