

NAFR**HIGH COURT of CHHATTISGARH, BILASPUR****Misc. Appeal (C) No. 698 of 2017**

Raju S/o Shri Gora Chand Sidar, aged about 18 years, Occupation Student,
 R/o Vivekanand Colony, Characha Colliery, Police Station Characha, Tahsil
 Baikunthpur, Civil & Revenue District Korla, Chhattisgarh
 (Claimant)

---- Appellant**Versus**

1. Jai Prakash Yadav S/o Shri Suneshwar Prasad Yadav, aged about 21 years R/o Raghunathpur, Sakarapara, District Balrampur, Chhattisgarh, at present R/o Village Nayanpur, Police Station & Tahsil Surajpur, Civil & Revenue District Surajpur, Chhattisgarh(Driver of the offending vehicle Truck No. C.G.15 A C 1613)
2. Shiv Narayan Agrawal S/o Shri Laxmi Narayan Agrawal, aged about 58 years R/o M.G.Road Ambikapur, Police Station & Tahsil Ambikapur, Civil & Revenue District Sarguja, Chhattisgarh(Owner of the offending vehicle Truck No. C.G.15 A C 1613)
3. The Oriental Insurance Company Limited, through the Branch Manager, Branch Office- Main Road Surajpur, Police Station & Tahsil Surajpur, Civil & Revenue District Surajpur, Chhattisgarh(Insurer of the offending Vehicle Truck No. C.G.15 A C 1613)

---- Respondents

For Appellant	:	Shri Paras Mani Shrivastava, Advocate
For respondent no.3	:	Shri Arvind Shrivastava, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****12/07/2017**

Heard on I.A. No.01/17 for condonation of delay in filing the appeal.

2. For the reasons assigned in the said application and finding them to be satisfactory, I.A. No.01 is allowed and the delay of 52 days in filing the appeal stands condoned.

3. Heard on admission.

4. Present is an appeal on behalf of the claimant under Section 173 of the Motor Vehicles Act seeking for enhancement of the compensation. Challenge in the present case is the award dated 03.12.2016 passed by the Motor Accident Claims Tribunal, Baikunthpur, District Korla (CG) in Claim Case No.19/2015.

5. The brief facts of the case are that on 26.01.2014, while the appellant along with his father was coming from village Katora to Characha Colliery on a motorcycle, it was dashed by a truck bearing registration no. CG 15AC 1613 coming from the opposite direction. The said truck was being driven by respondent no.1, owned by respondent no.2 and was insured by respondent no.3. In the said accident the claimant sustained grievous injuries. The claimant had filed a claim application before the Tribunal seeking for an amount of Rs.5,00,000/- as compensation.

6. The Tribunal taking into consideration the entire facts and circumstances of the case, the pleadings and the evidences which have come on record vide its award dated 03.12.2016 granted compensation of Rs.55,419/- to the claimant. Out of the said amount, Rs.50,000/- was ordered to be paid towards physical and mental suffering and disability caused to the claimant, Rs.5,000/- towards future expenses which he shall incur in the course of treatment and medical Bills of Rs.419/- were also granted.

7. It is this award which has been challenged by the appellant/claimant seeking enhancement.

8. Counsel for the appellant submits that it is a case where the Tribunal has erred in not applying any multiplier for the purpose of computing

compensation. He submits that the compensation towards pain and sufferings has not been granted and therefore the award deserves to be enhanced suitably.

9. Counsel for the respondent no.3 however opposing the appeal submits that the award seems to be fair and reasonable taking into consideration the evidences which have come on record. He submits that the appellant was a student and as such, there was no loss of any income. He further submits that the disability is also temporary in nature and that too only 10% and thus, prayed for dismissal of the appeal.

10. Having heard the rival contentions put forth by the counsel on either side and on perusal of the record, this Court is of the opinion that ends of justice would meet if the appeal is decided at this admission stage itself. The evidences which have come on record undisputedly shows that the appellant was a student of Class XIIth . The other admitted fact in respect of the injuries which were sustained by the appellant is that the doctor has also been examined who has said that in the course of treatment, steel plate and screws have already been installed in the thigh bone of the appellant and the same would have to be removed after sometime by again undergoing surgery. The doctor has expressed an opinion that there is possibility of complete recovery of the fracture in the course of three years time.

11. All these facts which have been stated in the preceding paragraph clearly reflect the gravity of the injuries sustained by the appellant. True it is the appellant is a student of Class XIIth but it ought to have been noted by the Tribunal that the injuries sustained by the appellant and the recovery time must have adversely affected the student in his educational career. Likewise, the nature of injuries also shows that there was a fracture on the thigh bone which has to be operated and steel plate and screws had to be installed

which definitely must have put the appellant to a considerable amount of pain and sufferings.

12. Considering the aforesaid facts, this Court feels that the compensation of Rs.50,000/- towards pain, suffering and disability has to be enhanced to Rs.75,000/-. The impugned award is thus modified to that extent. The appellant shall be entitled for total amount of Rs.80,419/- as compensation. The respondent no.3 shall pay the additional amount of Rs.25,000/- as enhanced compensation to the appellant. Rest of the impugned award shall remain intact.

13. With the aforesaid modification to the impugned award, the appeal stands allowed.

**Sd/-
(P. Sam Koshy)
JUDGE**