

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 1034 of 2017

Smt. Durga Gupta W/o Shri Alok Gupta Aged About 26 Years
Occupation Tuition Teacher, R/o Gandhinagar, Ward No. 3, Near
Hotel Bandhan, Ambikapur, Tahsil Ambikapur, District Surguja
Chhattisgarh.

---- Appellant

Versus

1. Alok Kumar Gupta S/o Late Ramlagan Gupta Aged About 32 Years
Occupation Police Constable, R/o Gandhinagar, Ward No. 3, Near
Hotel Bandhan, Ambikapur, Tahsil Ambikapur, District Surguja
Chhattisgarh.
2. Ravi Kumar Sharma S/o Vikram Sharma Aged About 21 Years
Occupation-Vehicle Driver, R/o Langarsai Ward Kenabandh,
Shikariroad, Ambikapur, Distict Surguja Chhattisgarh.
3. The Branch Manager, I F C O Tokyo General Insurance Company
Limited, Through Head Branch Office, Plot No. 3, Sector-29,
Gudgaon (Haryana) - 122001.

---Respondents

For Appellant	:	Mr. D.N. Prajapati, Advocate
For Respondent No.3	:	Mr. Amrito Das and Mr. Abhyuday Singh, Advocates

Hon'ble Shri Justice P. Sam Koshy

Order on Board

11/09/2017

1. The present is an appeal by the claimants challenging the impugned award dated 11.05.2017, passed by the 4th Additional Motor Accident Claims Tribunal, Surguja, in Motor Accident Claim Case No. 217/2016 seeking for further enhancement of the compensation. Vide the said impugned award, the Tribunal in a proceeding under Section 166 of the Motor Vehicles Act in an injury case has awarded a compensation of Rs.93,953/- with interest @ 6% per annum from the date of application. Of the said amount Rs.69,953/- is the compensation awarded towards medical expenses incurred by the appellant.
2. The contention of the appellant is that the compensation awarded under the different heads are too meager an amount and for the

serious injuries sustained by the appellant she is entitled for more compensation. The injuries sustained by the appellant was the fracture on the right leg as also her jaw and both the fractures required surgeries and also a steel rod had to be inserted as part of the treatment of the fracture of her right leg. Though the Doctor in the instant case has not been examined and the disability part also could not have been properly established for want of the evidence of the Doctor, but the documents which has been produced during the course of the evidence and have been marked clearly establishes the fracture on her right leg and the insertion of the steel rod and also the surgeries on her jaw. Considering the gravity of the offences, this Court is of the opinion that the appellant definitely would have incurred further treatment also towards complete cure of the fracture and the injuries sustained. She must also have undergone tremendous pain and suffering, particularly since her jaw had got broken along with couple of teeth.

3. Considering the fact that the appellant had sustained the fracture of her jaw, she would have found it difficult in having her normal diet for a considerable period of time and must have been confined also to liquid or semi-liquid diet, all of which must have put her an extra financial burden. Likewise the appellant must have also sustained certain incidental transport expenses and in engagement of an attendant.
4. The counsel for the Insurance Company however opposes the appeal on the ground that the claimants have not substantiated their claim by leading additional medical evidence to corroborate their evidence and therefore the award passed by the Tribunal is just and reasonable and does not warrant any interference and prayed for rejection of the appeal.
5. Having heard the counsel appearing on either side and on perusal of the record, this Court has no hesitation in reaching to the conclusion that the appellant in the instant case has been able to establish the accident to have occurred on 13.06.2016 and as a result of the accident, the appellant's right leg as well as the jaw sustained

grievous injuries and the appellant had to undergo surgeries also in this regard.

6. True it is the claimant has not established the disability part by leading any evidence of a medical expert, but undoubtedly the appellant considering the nature and gravity of the injuries must have incurred further medical expenses also as a part of her future treatment and for which this Court quantifies the compensation by awarding an additional compensation of Rs.45,000/-.
7. The appellant had sustained grievous fractured injuries on her jaw and a couple of her tooth were also broken and further her right leg also got fractured and had to be operated upon further steel rod also had to be inserted as a part of the treatment. All these must have put the appellant to great amount of pain and suffering and for which also this Court is of the opinion that an additional amount of Rs.40,000/- in addition to what has been awarded would meet the ends of justice. Likewise for the special diet incurred, this Court is of the opinion that an additional amount of Rs.25,000/- would be an appropriate compensation and this Court further quantifies the transportation cost incurred during the course of the treatment at Rs.10,000/- instead of Rs.3,000/- as awarded by the Tribunal. The expenses under medical head of Rs.69,953/- stands intact. Thus the total compensation payable shall be Rs.1,89,953/-. Thus the appellant shall be entitled for an additional amount of Rs.96,000/- in addition to what has been awarded by the Tribunal. The said amount shall also carry interest at the same rate as awarded by the Tribunal.
8. The appeal of the appellant thus stands allowed.

Sd/-
(P. Sam Koshy)
Judge