

HIGH COURT of CHHATTISGARH, BILASPUR**MAC No. 1332 of 2017**

Chhavilal Vatti S/o Jarharam Aged About 45 Years R/o Village Dayalpur Keshkal, District Kondagaon, Present Address Kulgaon, Tahsil Kanker, District North Bastar Kanker Chhattisgarh.

---- Appellant

Versus

1. Nazir Khan @ Raju S/o Ahamad Khan Aged About 53 Years R/o Adarapara Keshlal District Kondagaon Chhattisgarh (Driver Of The Vehicle)
2. Peter Rao S/o Sambha Rao Aged About 50 Years R/o Barpara Keshkal P. S. Keshkal District Kondagaon Chhattisgarh (Owner Of The Vehicle)
3. The Branch Manager, Shri Ram General Insurance Co. Ltd. Jaipur (Rajasthan) Office At E-8, Epipr / Ico Industries Area Sitapur (Rajasthan) (Insurer).

---- Respondents

For Appellant	:	Shri PK Tulsyan, Advocate.
For respondent No.3	:	Shri SS Rajput, Advocate.

SB: Hon'ble Shri Justice P. Sam Koshy

Judgment On Board

23.10.2017.

1. For the reasons mentioned in the application, IA No.1 is allowed and delay in filing the appeal stands condoned.
2. The present is an appeal filed by the claimant seeking enhancement of compensation under Section 173 of the Motor Vehicles Act (for short, the MV Act) against the award dated 11.05.2017 passed by the Additional Motor Accident Claims Tribunal, Kanker (for short, the Tribunal) in Claim Case No.83 of 2015. Vide the said impugned award, the Tribunal in a claim application filed under Section 166 of the MV Act has awarded compensation of Rs.1,91,545/-along with interest @ 7 percent per annum from the date of application.
3. Learned counsel appearing for the appellant submits that the compensation awarded is on lower side inasmuch as the claimant has

received grievous injuries and had to be operated for both his fractures and steel plates had to be installed at the place of fracture. Likewise, the compensation under conventional heads are also on lower side. In addition, loss of income during treatment has also not been considered. The doctor, a member of district medical board, who have issued the disability certificate have also been examined, but he has been disbelieved, and therefore, prayed for the amount of compensation to be suitably modified or enhanced.

4. Counsel for the insurance company however opposing the appeal submits that the award passed by the Tribunal seems to be fair and reasonable considering the entire facts and circumstances of the case.
5. Having heard the rival contentions put forth on either side and on perusal of records, the undisputed facts are the date of accident, the injury suffered by the claimant and the subsequent treatment that he had undergone. If we look into the nature of injuries suffered by the claimant that itself would reflect that the claimant must have undergone great element of pain and suffering as also mental agony during the course of treatment. Further, the accident must have also reduced his earning capacity considerably. Thus, looking to the age of the claimant at the time of accident and the period of treatment that he has undergone i.e. for 2 and ½ months, this court is of the opinion that ends of justice would meet if a consolidated lump sum compensation of Rs.1,00,000/- is awarded to the claimant in addition to what has already been awarded by the Tribunal. It is ordered accordingly.
6. Thus, the total compensation payable to the claimant would be

Rs.2,91,545/- instead of Rs.1,91,545/-.

7. The said enhanced amount of compensation shall also carry interest at the same rate as awarded by the Tribunal.
8. Accordingly, the appeal of the claimant stands allowed and disposed off.

Sd/-
(P.Sam Koshy)
Judge

inder