

NAFR

HIGH COURT of CHHATTISGARH, BILASPUR**MAC No. 29 of 2015**

Naresh Kumar Tandan S/o Shri Bhurudas Tandan, aged about 28 years, R/o Village Ghothiya, Police Station and Tahsil Khairagarh, Civil and revenue District Rajnandgaon (CG).

---- Appellant**Versus**

1. Ramesh Chand Jain S/o late Gaindmal Jain, aged about 56 years, R/o 16-Mahavir Colony, Durg, Police Station Kotwali, Durg, Distt. Durt (CG).
2. United India Insurance Co. Ltd. through Branch Manager, Branch Office, Rajmal Complex, Kamthi Line, Rajnandgaon, District Rajnandgaon (CG).

---- Respondents

For Appellant	:	Shri PK Tulsyan and Shri AL Singroul, Advocates under instructions of Shri Abhishek Sharma, Advocate.
For respondent No.2		Shri HB Agrawal, Sr. Advocate along with Shri Pankaj Agrawal, Advocate.

Hon'ble Shri Justice P. Sam Koshy**Judgment On Board****08.12.2017**

1. The present appeal under Section 173 of the Motor Vehicles Act has been filed by the claimant seeking enhancement of compensation against the award dated 30.10.2014 passed by the Additional Motor Accident Claims Tribunal, Khairagarh (in short, the Tribunal) in Claim Case No.76/2012. Vide the said impugned award, the Tribunal in an injury case has awarded a compensation of Rs.61,194/- to the claimant along with interest @ 9 percent per annum from the date of application.
2. Counsel for the appellant-claimant submits that the amount of compensation awarded by the Tribunal is on lower side and that

considering the nature of injuries suffered and the treatment which has been incurred by the appellant, the compensation awarded by the Tribunal is unreasonably low, and thus prayed for amount to be suitably enhanced. Further, the doctor in the instance case has been examined and he has certified the disability around 50 percent whereas, the Tribunal as assessed the disability at 8 percent only which is unreasonably low.

3. The counsel for the insurance company, however opposing the appeal submits that the award seems to be fair and reasonable as the same has been passed on the basis of evidence which have come on record. Therefore, the appeal does not have any merit and the same deserves to be rejected.
4. Having heard the contentions put forth on either side and on perusal of records, particularly the evidence of Doctor Prakash Bhalerao, AW-1, who has categorically deposed before the Tribunal in respect of multiple fractures which the claimant had sustained on his right leg. The doctor has further certified the disability to be 50 percent. Thus, considering the entire facts and circumstances of the case; the medical evidence which have come on record; the injuries sustained by the claimant, and also keeping in view the decision of Supreme Court in case of Raj Kumar Vs. Ajay Kumar & Anr.2011 (1)SCC 343, this court assesses the permanent disability of the claimant at 25 percent instead of 8 percent as assessed by the Tribunal.
5. Likewise, it is also pertinent to take note of the fact that the income assessed by the Tribunal is Rs.3000/-a month. The claimant was a

Driver, the period of accident was May, 2011 where indisputably even an unskilled labour would have been earning more than Rs.150/- a day i.e. 4500/- per month. This court therefore, assesses the income of the claimant at Rs.4500/- instead of Rs.3000/- as assessed by the Tribunal and proceeds to quantify the compensation.

6. Accepting Rs.4500/- as monthly income, the yearly income would be Rs.54,000/-, 25 percent of which would be Rs.13,500/- which if multiplied by applying multiplier of 17, the amount of compensation would become Rs.2,29,500/-. In addition, the claimant would also be entitled for a total amount of Rs.9500/- under the other heads including medical expenses incurred as has been awarded by the Tribunal, making a total compensation at Rs.2,39,000/-.
7. It is ordered accordingly that the claimant shall now be entitled for a total compensation of Rs.2,39,000/- instead of Rs.61,194/- as awarded by the Tribunal.
8. The insurance company is directed to deposit the balance amount at the earliest adjusting the amount which has already been deposited by it before the Tribunal.
9. The above enhanced amount of compensation shall carry interest at the present rate prevailing in the market i.e. 6 percent instead of 9 percent as awarded by the Tribunal.
10. Accordingly, the appeal of the appellant-claimant stands allowed and disposed of.

Sd/-

(P.Sam Koshy)
Judge