

HIGH COURT OF CHHATTISGARH AT BILASPURMAC No. 100 of 2018

Dulari Bai W/o Visnath Dhritlahre, Aged About 38 Years, R/o Village Sandi, P.O. Bhansoj, Police Station Mandir Hasaud, District Raipur, Chhattisgarh. (Claimant).

---Appellant

Versus

1. Sheshnarayan Tiwari S/o Tribhuvan Nath Tiwari, R/o Chhattisgarh Nagar, Near Manoj Kirana Store, Police Station Tikrapara, Raipur, District Raipur, Chhattisgarh (Driver Of Vehicle No. C.G.04 E 2276).
2. Pardeshiram Sahu S/o Pyarelal Sahu, R/o Kushalpur, Aadiwasi Colony, Near Gayatri Mandir, Police Station Purani Basti, Raipur, District Raipur, Chhattisgarh (Owner Of Vehicle No. C.G.04 E 2276).
3. Cholamandlum M.S.General Insurance Company Limited, Through Incharge Officer, Cholamandlum M.S. General Insurance Company Limited, Railway Over Bridge Pandri, Police Station Purani Basti, District Raipur, Chhattisgarh (Insurer Of Vehicle No. C.G.04 E 2276).

---Respondents

For appellant/claimant	:	Shri Amiyakant Tiwari, Advocate.
For respondent No.3/Insurance Company.	:	Shri S.S.Rajput, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

06/02/2018

1. Heard on I.A.No.1, which is an application for condonation of delay.
2. Finding the reasons assigned in the said application to be satisfactory, I.A.No.1 is allowed and delay of 399 days in filing the appeal stands condoned.
3. Present is an appeal filed by the claimant under Section 173 of the Motor Vehicles Act, 1988 assailing the award dated 07/07/2016 passed by

the learned First Additional Motor Accident Claims Tribunal, Raipur (C.G) in Motor Accident Claim Case No. 95/2013.

4. Vide the said impugned award, the Tribunal in an injury case under Section 166 of the Motor Vehicles Act has awarded a compensation of Rs.3,86,073/- with interest @ 7% per annum from the date of application.

5. The learned counsel for the appellant/claimant submits that, the compensation awarded by the Tribunal is on the lower side as the disability suffered by the claimant was up to the extent of 40%, but the Tribunal has assessed it at only 35% and that the claimant were entitled for much more compensation than what has been awarded by the Tribunal and thus prayed for suitable enhancement of the award.

6. The counsel for the Insurance Company however opposing the appeal submits that, the Tribunal has taking into consideration the evidence which have come on record passed a reasonable award and therefore there is no scope of further enhancement.

7. Be that as it may, considering the entire facts and circumstances of the case, particularly the nature of injury suffered by the claimant and also the duration of the treatment, this Court is of the opinion that ends of justice would meet if, the claimant is awarded an additional compensation of Rs.25,000/- in addition to what has already been awarded by the Tribunal which would make the total compensation payable to the claimant at Rs.4,11,073/- instead of Rs.3,86,073/-. The said enhanced amount shall also carry interest at the same rate as has been awarded by the Tribunal.

8. So far as the liability part is concerned, the Insurance Company shall be at liberty of recovering the amount of compensation as directed by the Tribunal itself.

9. The appeal stands allowed and disposed off.

Sd/-

(P. Sam Koshy)
JUDGE

Sumit