

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**MAC No. 747 of 2012**

Smt. Asha Minz, W/o. Dilsay Akka, Aged about 31 years, At present R/o. Sukma, Police Station Sukma, District Dantewada, Bastar, Chhattisgarh, Permanent R/o. Village Sisrenga, Police Station Farsabahr, District Jashpur Chhattisgarh (Claimant)

---- Appellant**Versus**

1. Hiraram, S/o. Saudram, Aged about 29 years, R/o. Village Gayagulha, Police Station Sarang-garh, District Raigarh Chhattisgarh (Driver)
2. Maheshram Sahu, S/o. Late Rathuram Sahu, Aged about 48 years, R/o. Gramrani Sagar, Police Station Sarang-garh, District Raigarh Chhattisgarh (Owner)
3. IFFCO TOKIO General Insurance Company Ltd., Tisra Manjil, Shop No. 345, 347, Ganga Shopping Mall, Raipur, Chhattisgarh

---- Respondents

For Appellant (Claimant)	:	Mr. Punit Ruparel, Advocate along with Mr. Pankaj Agrawal, Advocate
For Insurance Company	:	Mr. Amrito Das, Advocate along with Mr. P. Acharya, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order on Board****22/02/2018**

1. The present is an appeal by the Claimant under Section 173 of the Motor Vehicles Act. Challenge is to the award dated 27.06.2012, passed by the 1st Additional Motor Accident Claims Tribunal, Bastar, Jagdalpur, Chhattisgarh, in Claim Case No. 165/2011.
2. Vide the impugned award, the Tribunal in an injury case has awarded a compensation of Rs.25,000/- with interest @ 6% per annum from the date of application.
3. During the course of arguments, it was revealed that the accident in the instant case is of 19.06.2010 and it occurred when the deceased was traveling in Bolero bearing registration No. CG/13/D/6125 and

sustained injuries on her left hand, resulting in fracture of the Ulna. The Claimant was hospitalized at the Maharani Hospital, Jagdalpur for a period of about 8 days i.e. from 19.06.2010 to 27.06.2010. The Claimant had also examined AW/2-Dr. Sanjay Prasad, who has categorically stated that the fracture injury on the left Ulna of the Claimant has not properly been united; it is known as “Malunited Monteggia” and has assessed the disability at 35%.

4. The Tribunal has after considering the pleadings and evidence which have come on record awarded a compensation of Rs.25,000/- with interest @6% per annum from the date of application. Of the said amount of Rs.25,000/-, Rs.20,000/- was assessed towards medical expenses and Rs.5000/- towards pain and suffering.
5. The counsel for the appellant submits that the appellant had suffered irreparable loss because of the injury, in as much as she has not been able to join her duties promptly and that she was also subsequently hospitalized and further there is a disability of 35% and therefore the compensation towards loss of earning capacity should also have been properly assessed for the disability caused.
6. The counsel appearing for the Insurance Company however opposes the claim of the appellant and prays for the rejection of the appeal stating that the finding of the Tribunal is just, fair and reasonable and that there is no scope of any enhancement.
7. Perusal of the record would show that the appellant was already appointed as a Shiksha Karmi and while going for joining, she had sustained the injury. The nature of injury as such also is not that which affected the loss of earning capacity of the appellant as she is

otherwise a teacher by profession. Further, what also is not in dispute is the fact the Claimant was hospitalized between 19.06.2010 to 27.06.2010 and further the Doctor AW/2 proved the injury caused and the permanent disability also.

8. Considering the entire facts and circumstances of the case, this Court is of the opinion that ends of justice would meet if the Claimant is awarded an additional lump sum compensation of Rs.75,000/- in addition to what has already been awarded. Thus making the total compensation payable to the Claimant at Rs.1,00,000/- (one lakh) only instead of Rs.25,000/-.
9. The said amount shall also carry interest at the same rate as has been fixed by the Tribunal.
10. The appeal thus stands allowed and disposed off.

Sd/-
(P. Sam Koshy)
Judge

Ved