

NAFR

HIGH COURT of CHHATTISGARH, BILASPUR**MAC No. 342 of 2018**

National Insurance Company Limited Branch Office, Hotel Ashtha Complex, State Bank Road, Civil Line Mandala, Tahsil And District Mandala (M.P.) Through Its Divisional Manager, Divisional Office- B-1, Taha Complex, Vyapar Vihar Road, Bilaspur, District Bilaspur, Chhattisgarh.

---- Appellant**Versus**

1. Kavilash S/o Sukhcharan Janghel Aged About 25 Years R/o Khairanvapara, Tahsil Chhuikhdan, District Rajnandgaon, Chhattisgarh.
2. Ashok S/o Brijlal Uike Aged About 40 Years R/o Sward No. 10 Baihar, Tahsil Baihar, District Balaghat (M.P.), District : Balaghat, Madhya Pradesh.

---- Respondents

For Appellant : Shri Dashrath Gupta, Advocate.

Hon'ble Shri Justice P. Sam Koshy**Judgment On Board****27.02.2018.**

1. The present appeal under Section 173 of the Motor Vehicles Act has been filed by the insurance company against the award dated 27.11.2017 passed by the Motor Accident Claims Tribunal, Khairagarh, Distt. Rajnandgaon (in short, the Tribunal) in Claim Case No.12/2016. Vide the said impugned award, the Tribunal in an injury case has awarded a compensation of Rs.3,27,000/- along with interest @ 6 percent per annum from the date of application.
2. The appeal has been preferred on the ground that there is a finding of contributory negligence that the accident occurred in the middle of the road and the accident was because of head of collision between

the two motorcycles. He further submits that the fact that there was a head on collision itself is sufficient to prove that the claimant was also equally responsible of the accident and therefore there is an element of contributory negligence.

3. A perusal of records would show that except for the question put forth to the claimant as regards the place of accident to be centre of the road, there is no evidence available on record to show that negligence was on the part of the claimant in the accident to occur. The possibility of negligence on the part of the vehicle coming from the opposite direction cannot be ruled out unless it is specifically proved and established that both the parties were equally responsible. Moreover, this court does not find out a strong case for interference for the reason that out of Rs.3,27,000/- awarded, an amount of Rs.2,76,000/- is towards the medical expenses. The remaining compensation for the pain and suffering and disability is only around Rs.50,000/-, which this court does not find to be either excessive or exorbitant.
4. In the given circumstances, this court does not find any strong case made out by the appellant for interference with the impugned award.
5. The appeal deserves to be and is accordingly rejected.

Sd/-

(P.Sam Koshy)
Judge