

NAFR

HIGH COURT of CHHATTISGARH, BILASPUR**MAC No. 864 of 2012**

Sukmunisao S/o Radhesao, aged about 21 years, occupation Nil, R/o village Malda, Police Station Pussore, District Raigarh (CG).

---- Appellant**Versus**

1. Ravishankar Gupta S/o Keshav Gupta R/o Village-Borodipa, Tahsil And P.S. Pussore, District-Raigarh C.G.
2. Dhaniram Sao S/o Hemlal Sao R/o Village-Malda, Police Station-Pussore, District-Raigarh C.G.
3. Hemsagar Gupta S/o Ravishankar Gupta Aged About 25 Years R/o Village Borodipa, Tahsil And Police Station Pussore, Dist. Raigarh C.G.
4. Sanjay Kumar Sao S/o Bharatlal Sao R/o Village-Malda, Police Station-Pussore, District-Raigarh C.G.
5. Branch Manager, The New India Insurance Co. Ltd. Sattigudi Chowk, Raigarh C.G.

---- Respondents

For Appellant	:	Shri Manoj Jaiswal, Advocate.
For respondent No.5	:	Smt. Chitra Shrivastava, Advocate.

Hon'ble Shri Justice P. Sam Koshy**Judgment On Board****09.03.2018.**

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 27.01.2012 passed by the 1st Additional Motor Accident Claims Tribunal, Raigarh (in short, the Tribunal) in Claim Case No.62/2011. Vide the said impugned award, the Tribunal has awarded a compensation of Rs.82,000/- with interest @ 6 percent per annum from the date of application.
2. The counsel for the appellant submits that the appellant herein was under continuous treatment and in due course of time subsequent to

the award being passed by the Tribunal, the left leg of the appellant had to be amputated below the knee and as such the permanent disability part has been substantially increased and the claimant would be entitled for much more compensation than what has been awarded.

3. He has brought on record certain documents pertaining to treatment by way of application for taking document on record which the insurance company opposes on the ground that this document as such cannot be taken into account for determining the disability part unless the same is duly proved by the competent doctor, more particularly the doctor who has treated the claimant.
4. Given the said facts and circumstances of the case, this court is of the opinion that taking into consideration the subsequent development i.e. amputation of left leg of the claimant below the knee, it would be in the larger interest of justice to remit the matter to the Tribunal so that the claimant would be able to adduce proper evidence before the Tribunal in determining the disability and the subsequent amputation part also from a competent doctor. If required, the claimant may also move an application for getting the doctor examined on commission. It is ordered accordingly.
5. The impugned award dated 27.01.2012 stands set aside. The matter is remitted back to the Tribunal for a fresh consideration of the case of the claimant after giving an opportunity to produce additional evidence, if any, particularly the medical evidence to prove the disability part. The respondents including the insurance company

would also have an opportunity of adducing fresh evidence, if any.

6. Since the parties are present before the court, they are directed to present before the Tribunal on 04.04.2018 and thereafter the matter may be proceeded further. The Tribunal should make all efforts in getting the matter concluded within a further period of four months thereafter.
7. Registry is directed to ensure that records of the case be sent back forthwith so that it may reaches the Tribunal before the due date given by this court.
8. The appeal thus stands allowed and disposed of.

Sd/-
(P.Sam Koshy)
Judge

inder