

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Misc. Appeal (C) No. 33 of 2012**

Upendra Thakur S/o Rati Ram Thakur, aged about 30 years, through legal representative wife Anusuiya Thakur R/o village Kotni, Police Station Pulgaon, District Durg (CG)

---- Appellant**Versus**

1. Chandrahas Sinha S/o Gend Lal Sinha, aged about 22 years, R/o village Nagpura, Police Station Pulgaon, District Durg (CG)
2. Shanker Chouhan S/o late Raghuvir Singh Chouhan, aged about 34 years, R/o village Nagpura, Police Station Pulgaon, District Durg (CG)
3. The Oriental Insurance Company Limited, near Rajendra Park Chowk Malviya Nagar, Durg (CG)

---- Respondents

For Appellant	:	Shri C. R. Sahu, Advocate
For Respondent no.3	:	Smt. Chitra Shrivastava, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****16/01/2018**

Present is a Claimant's appeal under Section 173 of the Motor Vehicles Act assailing the award dated 30.11.2011 passed by the 1st Additional Motor Accident Claims Tribunal, Durg (CG) in Motor Accident Claim Case No. 52 of 2011. Vide the impugned award, the Tribunal has awarded a compensation of Rs.1,31,760/- to the claimant with interest @ 6% per annum from the date of application.

2. Counsel for the appellant submits that the Tribunal has wrongly assessed contributory negligence to the extent of 40% against the claimant and that the amount of compensation also is on the lower side.

3. Perusal of the record would show that the contributory negligence was on the aspect of the claimant not having a valid licence to drive the motorcycle which he was driving when the accident occurred.
4. Given the fact that the claimant did not have a valid licence at the time of accident, there definitely is a contributory negligence proved before the Tribunal and the finding does not warrant any interference for this reason.
5. So far as the quantum of compensation is concerned, considering the entire facts and circumstances of the case more particularly the injury sustained by the claimant i.e. fracture of tibia fibula bone of right leg and also considering the pain and suffering that he had undergone, this Court feels it proper that ends of justice would meet if the claimant is awarded an additional amount of Rs.25,000/- in addition to what has already been awarded in his favour. It is ordered accordingly.
6. Thus, the total compensation payable to the claimant would become Rs.1,56,760/- instead of Rs.1,31,760/- as awarded by the Tribunal. The enhanced amount shall also carry interest at the same rate as has been fixed by the Tribunal.
7. The appeal thus stands allowed in part.

Sd/-
(P. Sam Koshy)
JUDGE