

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Misc. Appeal (C) No. 566 of 2012**

Ashish Vishwakarma S/o Khorbahra Viswakarma, aged about 25 years,
R/o village & Tahsil Ambagarh Chauki, District Rajnandgaon (CG)

---- Appellant**Versus**

1. Devendra Kumar Sahu S/o Ladhan Lal Sahu, aged about 25 years, R/o village Pairi, Tahsil Dongargaon, District Rajnandgaon (CG)
2. Rohit Kumar S/o Onkarnath Sahu, R/o village Pairi, Tahsil Dongargaon, District Rajnandgaon (CG)
3. National Insurance Company Ltd. Branch Office Kamthi Line, Rajnandgaon, District Rajnandgaon (CG)

---- Respondents

For Appellant	:	Shri Samir Singh, Advocate
For Respondents 1 & 2	:	Shri Abhishek Sharma, Advocate
For Respondent No.3	:	Shri R. N. Pusty, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****08/03/2018**

The present is a claimant's appeal under Section 173 of Motor Vehicles Act seeking enhancement of compensation. The challenge is to the award dated 02.02.2012 passed by the Motor Accident Claims Tribunal, Rajnandgaon (CG) in Claim Case No. 72/2011. Vide the impugned award, the Tribunal has awarded compensation of Rs.40,000/- to the claimant after assessing 50% towards contributory negligence from the total compensation calculated at Rs.80,000/-. The rate of interest has been awarded @ 6% per annum from the date of application.

2. The ground of challenge in the present appeal is that the finding of contributory negligence is bad in law so also the compensation awarded

towards disability is on the lower side. Counsel for the appellant submits that there was no substantive evidence available to show that there was any element of negligence on the part of the claimant in driving the Maruti van which was hit by a tractor coming from the opposite direction.

3. However, in support of his contention the claimant has not been able to show any sufficient material with which it could be presumed that he was travelling to the extreme left side of the road or that the tractor coming from the opposite direction had crossed over the wrong side of the road while hitting the claimant. Moreover, the evidence which has come on record shows that in fact, there was an head on collision between the two vehicles. Under the circumstances, this Court does not find the finding of contributory negligence on the part of the Tribunal to be erroneous in any manner.

4. So far as the enhancement of compensation is concerned, taking into consideration the nature of injury sustained which was only a fracture of collar bone and some minor injuries on the head, the doctor AW-2 has categorically stated that subject to the claimant undertaking physiotherapy, the disability suffered would be fully recovered. Under the circumstances, this Court does not find any strong case made out for enhancing the compensation as there does not appear to be any permanent disability suffered by the claimant.

5. Accordingly, the present appeal being devoid of merit stands dismissed.

**Sd/-
(P. Sam Koshy)
JUDGE**