

HIGH COURT OF CHHATTISGARH AT BILASPURMAC No.84 of 2018

Chhote Lal Dewangan S/o Shri Kartik Ram Dewangan, Aged About 40 Years, R/o- Model Chowk, Nehru Nagar, Bhilai, Post Office- Bhilai, Police Station- Smriti Nagar, Tahsil- Bhilai, District- Durg Chhattisgarh (Claimant).

---Appellant

Versus

1. Mangal Chand Banjare S/o Nanhu Ram Banjare, Aged About 46 Years, R/o Village- Ghirghot, Post Office And Police Station- Palari, District- Balodabazar-Bhatapara Chhattisgarh, Present Address- N C P Magneto Mall, Guard Room, Telebandha, Tahsil And District - Raipur Chhattisgarh. (Driver And Registered Owner Of Vehicle Hero Honda Motorcycle Bearing Registration No. C G 04/ D X /2816).
2. The I.C.I.C.I. Lombard General Insurance Company Limited, Through Regional Manager/ Regional Office, R/o - Lalganga Shopping Complex, G.E. Road, Raipur, Tahsil And District- Raipur Chhattisgarh. (Insurer Of Vehicle Hero Honda Motorcycle Bearing Registration No. C G 04/ D X/2816, District : Raipur).

---Respondents

For the appellant/claimant : Shri Shivendu Pandya, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

16/01/2018

1. Heard on I.A.No.1, which is an application for condonation of delay.
2. Finding the reasons assigned in the said application to be satisfactory, I.A.No.1 is allowed and delay of 104 days in filing the appeal stands condoned.
3. Present is an appeal filed by the claimant under Section 173 of the Motor Vehicles Act, 1988 assailing the award dated 19/05/2017 passed by

the learned Third Additional Motor Accident Claims Tribunal, Raipur, District Raipur (C.G.) in Motor Accident Claim Case No. 19/2013.

4. Vide the said impugned award, the Tribunal in an injury case under Section 166 of the Motor Vehicles Act has awarded a compensation of Rs.6,65,120/- with interest @ 7.5% per annum from the date of application.

5. The counsel for the appellant submits that, it is a case where the doctor had adduced before the Tribunal establishing the disability of 50% whereas the Tribunal has assessed the disability at 30% which is bad in law. He further submits that, the Tribunal has also not properly appreciated the income of the claimant while quantifying the compensation and thus prayed for suitable enhancement of the award.

6. Perusal of record, particularly, considering the nature of injury sustained by the claimant which is only of a fracture of fibula bone of the right leg and the said fracture subsequently having healed, this Court is of the opinion that, the Tribunal has sufficiently awarded the compensation to the claimant. Even otherwise, so far as assessment of 30% of the disability is concerned, the same also seem to be in consonance to the judgment of the Hon'ble Supreme Court in the case of **Raj Kumar Vs. Ajay Kumar & Anr.** [2011 1 SCC 343].

7. In view of the aforesaid decision of the Supreme Court and also considering the total amount of compensation awarded to the claimant under different heads as is reflected from paragraph 28 of the award, this Court is

of the opinion that no strong case has been made out by the counsel for the appellant calling for an interference with the impugned award.

8. The appeal thus being devoid of merits deserves to be and is accordingly rejected.

Sd/-

(P. Sam Koshy)
JUDGE

Sumit