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HIGH COURT OF CHHATTISGARH, BILASPUR

Miscellaneous Appeal (Civil) No. 943 of 2014

- Madhuri Kurre, D/o Tej Ram Kurre, aged about 19 years, R/o Village Bagoud, Tahsil Kurud, Police Station Kurud, Civil and Revenue District Dhamtari (C.G.)

---- Appellant/Claimant

Versus

1. Khublal, S/o. Ramswaroop, aged about 34 years, R/o Village Soram, Police Station Rudri, Tahsil & Dhamtari, Civil & Revenue District Dhamtari (C.G.)

(Driver of the vehicle)

2. Krishna Kumar Nagwanshi, S/o Ramsingh Nagwanshi, R/o Near Government School, Rampur Ward, Dhamtari, Police Station & Post Dhamtari, Civil & Revenue District Dhamtari (C.G.)

(Owner of the vehicle)

3. The Divisional Manager, The Oriental Insurance Company Limited, Branch Office M.B. Trade Centre, Second Floor, Near Ghadi Chowk, Dhamtari, Civil & Revenue District Dhamtari (C.G.)

(Insurer)

---- Respondents/Non-applicants

For Appellant	:	Shri Kunal Das, Advocate
For Respondents 1 & 2	:	None
For Respondent No.3	:	Shri Arvind Shrivastava, Advocate

Hon'ble Shri Justice Gautam Chourdiya, J

Judgment on Board

07.01.2019

1. The present is an appeal under Section 173 of the Motor Vehicles Act, 1988 preferred by the injured- Claimant/Appellant, seeking enhancement of the compensation awarded by the Chief Motor Accident Claims Tribunal, Dhamtari (C.G.) vide award dated 04.07.2014 passed in Claim Case No. 92 of 2013.

2. Respondent No.1 is driver, Respondent No.2 is owner and Respondent No.3 is insurer of the offending vehicle.

3. Facts of the case, in brief, are that on 01.02.2013, the Claimant/Appellant was going to Dhamtari from village Dandesara in the capacity of passenger in the

offending vehicle bus bearing registration No. CG-05/J/1029 which was being driven by Respondent No.1 in a rash and negligent manner. When the said offending vehicle (bus) reached at Dhamtari bus-stand, the bus was speedily turned by the driver/Respondent No.1, on account of this, the left hand of the Appellant hit against other bus due to which, she sustained grievous injury on her left hand, shoulder, head, face and waist. She was hospitalized in Dhamtari Hospital till 13.02.2013.

4. Respondents 1 and 2 remained *ex parte* and they have not submitted any reply on their behalf.

5. Before Tribunal, Insurance Company has submitted its reply and denied all the allegations made by the Appellant in the claim petition and pleaded that due to negligence of Appellant, she sustained injury from other bus.

6. The learned Tribunal, in the impugned award has awarded a compensation of Rs.33,700/- in favour of the Appellant/Claimant with interest @ 6% per annum from the date of application till its realization. The Tribunal has also directed the Respondents are jointly and severally liable for payment of compensation to the Claimant.

7. Learned counsel for the Appellant submits that the Appellant was a lady tailor and sewing the ladies garments and she was earning Rs.6,000/- per month. He further submits that she is a skilled worker, but due to accident she has been deprived of her regular income, therefore, he prays for enhancement of compensation.

8. On the other hand, learned counsel for the Insurance Company/Respondent No. 3 supports the impugned award and submits that the Tribunal considering all the relevant aspects of the matters has rightly awarded compensation which needs no interference by this Court.

9. I have heard the learned counsel appearing for the parties and perused the impugned award including the records of claim petition.

10. Considering the facts and circumstances of the case and on perusal of the

award including the records of the Tribunal, it appears that the learned Tribunal has rightly awarded compensation amount of Rs.33,700/- to the Appellant/Claimant on account of injury to her in a vehicular accident. Further, looking to the injury caused to the Appellant in her hand, her hospitalization from 01.02.2013 to 13.02.2013, she would definitely have suffered loss of some income for one month. Therefore, this Court is of the view that the interest of the parties will be safeguard by awarding lump sum additional compensation to the tune of Rs.3,000/-.

11. Accordingly, the present appeal is partly allowed and the Appellant/Claimant is hereby awarded additional compensation amount of Rs.3,000/- alongwith interest @ 6% per annum from the date of application till its realization. However, rest of the conditions of the impugned award shall remain intact.

12. No order as to costs.

Sd/-

(Gautam Chourdiya)
Judge