

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 852 of 2018**

1. Jilaram S/o Hurra aged about 38 years, R/o- Village Ghotpal Thana Gidam District- D.B. Dantewada (C.G.).

---- Appellant/Claimant

Versus

1. Branch Manager, National Insurance Company Limited Near Main Post Jagdalpur District- Baster (Chhattisgarh).

---- Respondents

For Appellant	: Shri A. L. Singrol, Advocate
For Respondent	: Shri Sanjay Patel, Advocate.

Hon'ble Shri Gautam Chourdiya, J

Judgment On Board

05.03. 2019

1. This appeal is filed by the claimant/injured -Jilaram against the award dated 12.02.2018 passed by First Additional Motor Accident Claims Tribunal, Dakshin Bastar Dantewada, in claim case No. 221/2014.
2. Briefly stated facts of the case are that on the date of accident i.e. on 31.10.2008 at about 5.30 pm claimant Jilaram was going on his Motorcycle Passion Plus bearing registration No. CG 18-E/0914 towards Gidam, suddenly vehicle was uncontrolled and unbalanced and the claimant fell down from his motorcycle and sustained grievous injuries.
3. On a claim petition being filed by the claimant under Section

163-A of the Motor Vehicles Act, 1988, the Tribunal considering the evidence led by both the parties passed an award to the tune of Rs. 16,000/- alongwith interest @ 7% per annum from the date of filing of claim petition till its actual payment in favour of the claimant, fastening liability of payment of compensation upon the respondent/Insurance Company.

4. Learned counsel for the appellant/injured submits that the claimant/injured sustained grievous injuries including permanent disability to the extent of 50% in his leg but the Claims Tribunal while assessing the amount of compensation has not considered permanent disability sustained by the claimant in view of the disability certificate issued by the Medical Board produced before the Claims Tribunal and, as such, the amount awarded by the Tribunal appears to be on lower side, which deserves to be suitably enhanced.

5. Learned counsel for the respondent/Insurance Company while supporting the award impugned and opposing the contention raised by the appellant/injured, submits that the disability certificate produced by the Claimant has not been considered by the Claims Tribunal on the ground that the accident occurred on 31.12.2014, after near about six years of the accident, without examining the treatment papers, treating doctor only on the basis of x-ray report only, superficially examined the claimant and issued the disability certificate by stating that claimant sustained multiple injuries including permanent disability to the extent of 50%. Therefore, considering the entire evidence adduced by the claimant the learned Tribunal has rightly come to the conclusion that the claimant has failed to prove the permanent disability and, as such,

no need to be interfered with the award.

6. Heard both the parties and perused the record and the award impugned.

7. This claim petition filed under Section 163-A of the Motor Vehicle Act but permanent disability was not proved by the claimant under the provisions of under Section 163-A of the Motor Vehicle Act, and as per the X-ray report (Ex. NA-5), fracture was found on thigh and after long delay of six years, disability certificate Ex.(NA-6) was issued by the Medical Board without examining the treatment papers. It is also to be seen that no treating doctor has been examined regarding proof permanent disability to the extent of 50% caused to the claimant before the Claims Tribunal. Furthermore, the Claims Tribunal has elaborately discussed the documents produced by the claimant in para 8, 9 and 14 of the award holding that even in the medical certificate, name of patient and his father's name has wrongly been mentioned.

8. In that view of the matter, I am of the opinion, learned Claims Tribunal has rightly not considered the medical certificate issued in favour of the claimant and I do not find it either perverse or contrary to the record warranting interference in the instant appeal.

9. Accordingly, misc appeal, being devoid of merit, is liable to be and is hereby dismissed.

Sd/-

(Gautam Chourdiya)

Judge