

**HIGH COURT OF JAMMU AND KASHMIR AT JAMMU**  
**Condl (C) No.112/2006, CIMA No.252/2006 and CMP No.295/2006**

**Date of decision : November 29, 2007**

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**Oriental Ins. Co. Ltd. Vs. Nirmal Singh & Anr.**

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**Coram:**

**Hon'ble Mr. Justice Virender Singh**

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For the appellant(s) : Mr. R.K. Jain, Advocate.

For the respondent(s) : Mr. A.S. Azad, Advocate.

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| i)  | Whether approved for reporting<br>in Press/ Media | <b>Yes / No</b> |
| ii) | Whether to be reported in<br>Digest/Journal:      | <b>Yes / No</b> |
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Appellant, Insurance Company (respondent-3 before the Tribunal) has filed the instant appeal impugning the award of Learned Motor Accidents Claims Tribunal, Rajouri, (for short 'Tribunal') dated 06-05-2006, vide which Nirmal Singh, respondent-1/claimant has been awarded a sum of Rs.1,78,000/- along with interest @ 7.5% for the injuries received by him in a vehicular accident, resulting into a permanent disability to the extent of 25%.

Since there is a delay of 20 days in filing the instant appeal, an application (Condl.(C) No.112/2006) has been moved for condonation of said delay. Pursuant to notice, Mr. Azad has put in appearance on behalf of respondent-1/claimant. Mr. Jain says that service of owners is not required at this stage.

Incidentally, I have gone through the impugned award also. Mr. Jain states that since the driver and the owner of the offending vehicle were set ex parte, the Appellant-Company had moved an application under Section 170 of Motor Vehicles Act, seeking permission to contest the claim petition on all the grounds, which were available to the owner and the driver of the offending vehicle and the said application was allowed.

So far as issue of negligence of the driver of the offending vehicle is concerned, I have gone through the finding returned by the learned Tribunal. It is observed that despite giving opportunities to lead evidence, the Insurance Company has not adduced any evidence. I find no infirmity in the same, which would call for interference of this Court.

On the aspect of quantum, Mr. Jain submits that the compensation awarded to respondent/claimant is on higher side. I do not agree with Mr. Jain on this count also. The learned Tribunal has awarded the compensation to the respondent/claimant under the following heads:

1)	For medical expenses	Rs.0,40,000/-
2)	For pain and suffering	Rs.0,15,000/-
3)	Loss of future income	Rs.1,08,000/-
4)	Loss of amenities of life	Rs.0,15,000/-
<b>Total</b>		<b>Rs.1,78,000/-</b>

Mr. Jain submits that apart from passing an award of Rs.40,000/- under the head medical expenses, the learned Tribunal has further awarded Rs.15,000/- each on two different heads, i.e., pain and suffering, and loss of amenities of life, which is otherwise not permissible under law. According to Mr. Jain, as per the schedule of the Motor Vehicles Act, Rs.5,000/- is the maximum permissible amount and, therefore, the amount awarded under these two heads is certainly on higher side. I do not intend to disturb the award on that issue also, as it is too meagre an amount keeping in view the disability of claimant/respondent.

Since I do not find any merit in the main appeal, I do not intend to condone the delay also. The net result is that, the instant appeal deserves to be dismissed at the motion stage itself along with the application for condonation of delay.

Resultantly, dismissed with connected CMP.

**( Virender Singh )**  
**Judge**

**Jammu**  
**November 29, 2007.**  
**\*T. Arora, PS\***

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