

IN THE HIGH COURT JUDICATURE AT BILASPUR

Misc. Appeal [C] No. 85/10 OF 2007 **Division Bench**

**APPELLANT
INSURER**

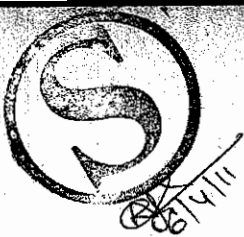
Bajaj Allianz Insurance Company
Limited, through Branch Manager,
Shivmohan Bhawan, Vidhansabha
Marg, Pandri, Raipur (C.G.)

R.A. No. 3457/09
Presented by Shri D.L. Dey
Dated 14.12.09

VERSUS

<u>RESPONDENTS CLAIMANTS</u>	<u>1</u>	Chhedilal Dhurndhar S/o Kejuram Dhurandhar Aged 55 Years Cast Kurmi R/o Village Tarpongi P.S. Dharsiwa District Raipur C.G.
<u>OWNER</u>	<u>2.</u>	Santosh Kumar S/o late Lakhani Lal Dhruw Aged 23 Years, resident of Rajpur P.S. Magarload District Dhamtari C.G.
	<u>3.</u>	Jageshwar Sinha S/o Rodhelal Sinha Aged 38 Years Resident of Rajpur Village Magarload District Dhamtari C.G.

**APPEAL U/S 173 OF THE MOTOR VEHICLES ACT AGAINST THE
AWARD/ORDER DATED 16.09.2009 PASSED BY SHRI
A.L.DHAHARIYA, THE ADDITIONAL MOTOR ACCIDENT CLAIMS
TRIBUNAL (F.T.C.) DHAMTARI, (C.G.) IN C.T.NO.18/2009**



CS

HIGH COURT OF CHHATTISGARH AT BILASPUR

DIVISION BENCH:

HON'BLE MR. I.M. QUDDUSI &
HON'BLE MR. PRASHANT KUMAR MISHRA, JJ.

M.A. [c] No. 85/2010

Appellant

The Oriental Insurance Co. Ltd.

Vs

Respondents

Chhedi Lal Dhurundhar & others

Present:

Mr. Abhishek Sinha, Advocate with Mr. G. Patel, Advocate for the appellant.
Mr. P.P. Sahu, Advocate for the respondent No.1.

ORDER (Oral)

(31st March, 2011)

I.M. Quddusi, J:

1. Heard.
2. By way of this appeal under Section 173 of the Motor Vehicles Act, 1988 (for short 'the Act'), the appellant-Insurance Company has impugned the award dated 16.09.2009 passed by the learned Additional Motor Accident Claims Tribunal, FTC, Dhamtari (CG) (for short 'the Claims Tribunal') in Claim Case No.18/2009 allowing claim application of the claimant, awarding compensation of Rs.4,00,000/- and fastening liability on the appellant-Insurance Company to pay compensation.
3. Permission under Section 170 of the Motor Vehicles Act, 1988 (for short 'the Act, 1988') to contest the claim on all available defences was granted to the appellant-Insurance Company.
4. Facts of the case, in brief, are that on 1.12.2008 at about 6.15 p.m. the claimant was going to Village Borsi from Village Magarload on his motorcycle bearing registration number CG04-C-2691 along with Village Kotwar Baldev Das Manikpuri. When they reached near Mohandi-Borsi road, at that time a tractor bearing registration number CG05-ZC-2535 coming from Village Sonewara and was driven in rash and negligent manner by its driver, hit the motorcycle of the claimant as a result he sustained various injuries on his body apart from the multiple fractures on his right leg. He was admitted in Rameshwaram Hospital, Dhamtari for treatment where a rod was inserted in his leg. Report of the incident was lodged in the police station Magarload and



after investigation, charge sheet was filed in the Court at Kurud. The claimant has filed claim application before the Claims Tribunal seeking compensation to the tune of Rs.6,65,000/- on the ground of permanent disablement sustained by him in the said accident.

5. On the pleadings of the parties, the Claims Tribunal has framed as many as five issues and after hearing the parties and considering material available on record allowed the claim application and fastened liability on the appellant-Insurance Company to pay compensation.
6. Learned counsel for the appellant-Insurance Company has impugned the impugned award mainly on the ground of quantum.
7. Learned counsel for the respondent No.1-claimant has also filed a cross-objection for enhancement of the amount awarded by the Claims Tribunal.
8. We have heard learned counsel for the parties and perused the records of the Claims Tribunal as also the findings given in the impugned award.
9. It is not in dispute that initially the claimant was working as Manager in Borsi Cooperative Society and was getting Rs.15,000/- per month as salary. Further, it is evident from the medical certificate of Ex.P-7 that the claimant has sustained 80% permanent disability as his right leg above the knee was amputated. It is also observed that the claimant has engaged one helper to whom he is paying Rs.3,000/- per month as salary. At the time of accident, the claimant was of 55 years of age and as such multiplier of 11 would be applicable in the present case as per decision of the Hon'ble Supreme Court in the matter of *Sarla Verma (Smt.) and others -vs- Delhi Transport Corporation* and another reported in (2009) 6 SCC 121 wherein it has been held that in case the claimant/deceased is between the age group of 51 to 55 years, multiplier of 11 would be applicable. However, in the instant case, the Claims Tribunal has applied the multiplier of 9, which is applicable for the age group of 56-60 years. Anyhow, if the multiplier of 11 is applied to Rs.36,000/-, which is being paid to the helper yearly, the total comes to Rs.3,96,000/- but since the claimant, who was in service at the time of accident, shall retire from the service after attaining the age of superannuation and thereafter though the helper would be required for him

but not for the purposes of attending office and therefore, we are of the view that the Claims Tribunal has not committed any illegality or impropriety in applying the multiplier of 9 rather the same is proper in the facts and circumstances of the instant case.

10. So far as the cross-objection filed by the claimant for enhancement of the amount of compensation is concerned, though the respondent No.1 has filed some documents showing expenditure incurred by him in his further treatment after the award was made, however, at this stage learned counsel for the respondent No.1 submits that the respondent No.1 does not want to press cross-objection. Accordingly, we are not inclined to interfere in the amount of compensation fixed by the Claims Tribunal.

11. On the basis of foregoing discussion, the appeal filed by the appellant-Insurance Company as also the cross-objection filed by the respondent No.1 are hereby dismissed. No order as to costs.

Sd/-
DR. I.M. Qudusi
Judge

Sd/-
Prashant Kumar Mishra
Judge

Roshan/-