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**Single Bench**

**IN THE HIGH COURT OF CHHATTISGARH AT  
BILASPUR**

**M.A.(C) NO: 1367/2014**

**APPELLANTS  
NON-APPLICANT  
NO. 1**

MAC 1367/14  
Presented by Shri. Atanu Ghosh  
Dated 15/12/14

Pintu Kumar Gupta, S/o Umesh  
Kumar Gupta, aged about 30  
years, R/o Village Banshipur,  
Police Station abd Tahsil  
Sonhar, Civil and Revenue  
District Koriya (C.G.)

**VERSUS**

**RESPONDENTS  
CLAIMANT**

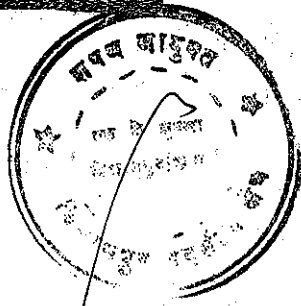
Amolsai Cherwa, S/o late  
Garibsai Cherwa, aged about 45  
years, R/o village Amra, Police  
Station and Tahsil Sonhat, Civil  
and Revenue District Koriya  
(C.G.)

**NON-APPLICANT  
NO. 2**

The Oriental Insurance  
Company Ltd. Branch Office –  
Pandey Complex, Moharpara  
Road, Manendragarh, District  
Koriya (C.G.)

**MISC. APPEAL U/S. 173 OF MOTOR VEHICLE ACT,**

**1988**



**HIGH COURT OF CHHATTISGARH AT BILASPUR**

**Single Bench:** Hon'ble Shri Justice P. Sam Koshy

**Misc. Appeal (C) No. 1367 of 2014**

**Appellant** Pintu Kumar Gupta

**VERSUS**

**Respondents** Amolsai and another

**Present:** Shri Ashok Kumar Shukla along with Shri Atanu Ghosh,  
counsel for the appellant.

**Oral Order**  
**(24.12.2014)**

By way of the instant Appeal under Section 173 of the Motor Vehicles Act (for short 'the Act'), the appellant, who is the owner of the offending vehicle has challenged the award dated 29.9.14 passed by the Additional Motor Accidents Claims Tribunal (F.T.C), Baikunthpur, Distt. Korea (for short 'the Tribunal') in M.A.C.C No.45/2013.

2. Facts in brief are that respondent No.1/injured claimant who was traveling in the truck bearing registration No.CG 16/E 0464 on 18.7.12 met with an accident resulting in grievous injuries as a result of which, his left leg had to be amputated. The respondent No.1/injured claimant had filed a claim case before the Tribunal for compensation on account of the permanent disability sustained by him.

3. The Tribunal, after the pleadings were complete and the evidence was recorded, vide impugned award dated 29.9.14, passed the award in favour of the claimant/respondent No.1 holding that he is entitled for compensation of Rs.4 lacs with interest @ 6% per annum.

4. It is this award which is under challenge by the owner of the offending vehicle in the instant appeal.

5. There are two grounds on which counsel for the appellant has challenged the award. Firstly, that the Insurance Company has been wrongly exonerated of its liability to pay compensation, as there has been no evidence led on behalf of the Insurance Company in support of its defence of breach of policy. Secondly, the quantum awarded by the

Tribunal is also on the higher side.

6. Dealing with the 1st ground, if we peruse the record, it is evident that admittedly the truck, at the relevant point of time, was having an Insurance policy i.e. known as Kissan Package Policy for which the risk covered is only that of the owner cum driver of the truck. Admittedly, in the instant case, respondent No.1/injured claimant was traveling in the truck not in the capacity of the owner or the driver but as a gratuitous passenger and as such the gratuitous passenger would not be covered in the said Kissan Package Policy and therefore, the finding of the Tribunal exonerating the liability of the Insurance Company cannot be said to be bad in law or arbitrary nor can it be said to be illegal in any manner.

7. So far as the quantum is concerned, if we look at the finding of the Tribunal, it can safely be held that the salary of Rs.150 per day which the respondent No.1/injured claimant is said to be drawing at the relevant of time, cannot by any stretch of imagination, said to be exorbitant or highly excessive and that if the compensation is calculated taking into account Rs.150 per day as the daily income of the respondent No.1/injured claimant, then the compensation awarded by the Tribunal apparently is in accordance with the provisions of the Act and the rules framed therein.

8. Thus, both the grounds raised by the appellant not having sufficient force, the instant appeal being devoid of merits, the same is accordingly rejected.

Sd/-  
**P. Sam Koshy**  
Judge