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## **Dulari Bai Vs Sheshnarayan Tiwari And Ors**

### **Miscellaneous Appeal (C) No. 100 Of 2018**

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**Court:** Chhattisgarh High Court

**Date of Decision:** Feb. 6, 2018

**Acts Referred:**

Motor Vehicles Act, 1988 & Section 166, 173

**Hon'ble Judges:** P. Sam Koshy, J

**Bench:** Single Bench

**Advocate:** Amiyakant Tiwari, S.S. Rajput

**Final Decision:** Allowed/Disposed Of

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### **Judgement**

P. Sam Koshy, J

1. Heard on I.A.No.1, which is an application for condonation of delay.

2. Finding the reasons assigned in the said application to be satisfactory, I.A.No.1 is allowed and delay of 399 days in filing the appeal stands

condoned.

3. Present is an appeal filed by the claimant under Section 173 of the Motor Vehicles Act, 1988 assailing the award dated 07/07/2016 passed by the

learned First Additional Motor Accident Claims Tribunal, Raipur (C.G) in Motor Accident Claim Case No. 95/2013.

4. Vide the said impugned award, the Tribunal in an injury case under Section 166 of the Motor Vehicles Act has awarded a compensation of

Rs.3,86,073/- with interest @ 7% per annum from the date of application.

5. The learned counsel for the appellant/claimant submits that, the compensation awarded by the Tribunal is on the lower side as the disability suffered

by the claimant was up to the extent of 40%, but the Tribunal has assessed it at only 35% and that the claimant were entitled for much more

compensation than what has been awarded by the Tribunal and thus prayed for suitable enhancement of the award.

6. The counsel for the Insurance Company however opposing the appeal submits that, the Tribunal has taking into consideration the evidence which

have come on record passed a reasonable award and therefore there is no scope of further enhancement.

7. Be that as it may, considering the entire facts and circumstances of the case, particularly the nature of injury suffered by the claimant and also the

duration of the treatment, this Court is of the opinion that ends of justice would meet if, the claimant is awarded an additional compensation of

Rs.25,000/- in addition to what has already been awarded by the Tribunal which would make the total compensation payable to the claimant at

Rs.4,11,073/- instead of Rs.3,86,073/-. The said enhanced amount shall also carry interest at the same rate as has been awarded by the Tribunal.

8. So far as the liability part is concerned, the Insurance Company shall be at liberty of recovering the amount of compensation as directed by the

Tribunal itself.

9. The appeal stands allowed and disposed off.