

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

FAO No.9021 of 2014 (O&M)

Date of decision: 24.08.2015

Kaushal Dayma

.....Appellant

Versus

Jakir Khan and others

.....Respondents

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Shiv Kumar, Advocate,
for the appellant.

Mr. Pradeep Kumar, Advocate,
for respondent No.3.

Ritu Bahri, J.

Claimant-appellant has come up in appeal against the Award dated 31.07.2014 passed by the Motor Accident Claims Tribunal, Faridabad, whereby compensation of Rs.14,65,320/- along with interest at the rate of 7.5% has been awarded in favour of the appellant on account of the injuries sustained by him in a road accident.

Facts not in dispute are that on 08.12.2012, a motorcycle bearing registration No.HR-72-0545 was being driven by one Amar Singh, on which the claimant-appellant was a pillion rider. At about 3.30 p.m., when they reached at Firozpur turn to village Sikrona, a three wheeler bearing registration No. HR-38R-2153, being driven by respondent No.1-Jakir Khan came from the opposite side in a rash and negligent manner and struck against their motorcycle, as a result of which, the appellant fell on the road and sustained grievous injuries. The appellant was taken to Akash Hospital, from where he was referred to Sarvodya Hospital. Thereafter, he was taken to Apollo Hospital, Delhi. In this regard, FIR No.620 dated 08.12.2012 was

registered at Police Station, Sector 55, Faridabad.

In order to prove his case before the Tribunal, the claimant had placed on record bill, Ex.P10, amounting to Rs.13,09,246/-, which was issued by Indraprastha Apollo Hospital, Delhi. The said bill was proved on record by Deva Nand Sharma, Billing Clerk (PW-3). Suresh Kumar Yadav, Medical Record Keeper, Sarvodaya Hospital, Faridabad (PW-7) had proved the bill, Ex.PW7/B, amounting to Rs.13,074/-. Apart from this, Dr. Surender Bhardwaj (PW-1) had proved the bills, Ex.P1 to Ex.P8, amounting to Rs.1,16,500/- with regard to physiotherapy of the claimant. On the basis of this evidence, an amount of Rs.14,38,820/- has been awarded towards medicines/treatment. Further, a sum of Rs.16,500/- have been awarded for stay in hospital. Besides this, Rs.10,000/- have been awarded for pain, suffering and special diet.

Nothing has been awarded to the claimant towards permanent disability.

Learned counsel for the appellant has made an application (CM No.24656-CII of 2014) under Order 41 Rule 27 CPC for permission to place on record the disability certificate dated 27.08.2014 (Annexure A/1) issued by the office of Civil Surgeon, Faridabad, according to which, the claimant had suffered 40% disability.

The Tribunal has passed the impugned Award on 31.07.2014, whereas the disability certificate (Annexure A/1) was issued on 27.08.2014. Since this certificate was given after passing of the impugned Award, the claimant-appellant has a right to prove the same on record by leading sufficient evidence in order to claim adequate compensation under the head “disability”.

In view of the above, the impugned Award dated 31.07.2014

passed by the Tribunal is set aside and the matter is remitted back to the Tribunal to enable the claimant-appellant to prove the disability certificate (Annexure A/1) in accordance with law. Accordingly, the parties are directed to appear before the Tribunal on 29.10.2015.

At this stage, learned counsel for the Insurance Company-respondent No.3 states that they had already deposited the amount, as assessed by the Tribunal. It is made clear that the amount, so deposited by the Insurance Company, shall be adjusted as and when the final Award is passed by the Tribunal after examining the disability certificate.

24.08.2015
ajp

(RITU BAHRI)
JUDGE