

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

FAO-3151-1996 (O&M)
Date of decision: 28.04.2016

State of Haryana and another

...Appellants

Versus

Lekh Raj and another

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Saurabh Mohunta, DAG, Haryana,
for the appellant.

Mr. Palvinder Singh, Advocate for respondent No.1.

JITENDRA CHAUHAN, J.

The instant appeal has been preferred by the appellant-owner, challenging impugned Award dated 07.08.1996, passed by learned Motor Accidents Claims Tribunal, Ambala, (for short, 'the Tribunal').

The solitary argument raised by learned State counsel is that the learned Tribunal fell in error while holding that the injured-claimant suffered permanent disability to the extent of 40%, is erroneous. It is contended that such a finding has been recorded only on the basis of presumption as no evidence, whatsoever, in the shape of disability certificate or any other

document, was produced on record.

On the other hand, learned counsel for respondent No.1 has vehemently opposed the present appeal.

I have heard learned counsel for the appellant and have carefully gone through the paper book.

It is admitted fact that no disability certificate was produced by the injured-claimant to prove the extent of disability suffered by him. However, he has examined Dr. Ashok Nundra, PW1, who deposed that on 08.11.1993, Lekh Raj was admitted with a history of road-side accident. He was having a fracture of shaft femur right with multiple abrasions and a stitched wound on his face and head. On 11.11.1993, he was operated upon for fracture shaft femur and K-nail was inserted into his right femur. After being discharged on 22.11.1993, he was further referred to Dr. OP Gupta, Ambala City, for retention of urine as well as for functional brace. Similarly, the injured-claimant while appearing as PW-2, deposed that he remained admitted in Nandara Hospital for about 20-25 days and an iron rod was inserted in his thigh for union of bone.

In the absence of the disability certificate, learned Tribunal observed that the claimant was unable to sit and walk properly and taking into consideration the entire facts and

circumstances, assessed the permanent disability to the extent of 40%, which keeping in view the nature of injuries, cannot be said to be on higher side. Furthermore, the accident in question took place on 06.11.1993. Thus, keeping in view the fact that it is a beneficial legislation, this Court at this stage is not inclined to take another possible view, which would go against the injured-claimant, at such a belated stage.

In view of the above, the present appeal is hereby dismissed.

The statutory amount, if any, deposited by the appellant be placed at the disposal of the Tribunal for disbursement.

28.04.2016
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(JITENDRA CHAUHAN)
JUDGE