

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

FAO No. 5563 of 2011(O&M)

Date of decision: 13.12.2016

Akash

....Appellant

VERSUS

Vikramjit Singh and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Ashwani Arora, Advocate for the appellant.

Mr. R.N. Singal, Advocate for respondent No.3.

REKHA MITTAL, J.(Oral)

The present appeal has been directed against award dated 10.01.2011 passed by the Motor Accidents Claims Tribunal, S.A.S. Nagar, Mohali (in short 'the Tribunal') whereby compensation has been awarded in respect of injuries sustained by Akash (minor) aged about 8 years in a motor vehicular accident that took place on 26.09.2008.

Counsel for the parties are *ad idem* that findings of the Tribunal on issue No.2 may be set aside and the matter is remitted to the Tribunal for assessment of compensation afresh after permitting the claimant to adduce additional evidence in regard to disability suffered by him owing to injuries sustained in the occurrence.

In view of the above, the appeal is partly allowed; findings recorded by the Tribunal on issue No.2 are set aside and the matter is remitted to the Tribunal for adjudication afresh only qua question of assessment of compensation. The claimant shall be at liberty to adduce evidence in order to prove disability suffered by the victim. Thereafter, the

insurance company shall be entitled to lead evidence in rebuttal. The Tribunal shall put its best efforts to decide the matter within a period of 4 months from the parties putting in appearance before the Tribunal. The parties through their counsel are directed to appear before the Tribunal on 23.12.2016.

Before parting with this order, it is clarified that service of driver and owner of the vehicle for the purpose of assessment of compensation is dispensed with. Compensation paid by the insurance company in pursuance of the earlier award made by the Tribunal shall not be recovered till decision of issue No.2 afresh. In case the claimant is held entitled to compensation more than what had earlier been assessed by the Tribunal, compensation already paid shall be adjusted qua that amount. However, if assessment made by the Tribunal came to be less than what was earlier assessed, the insurance company would be at liberty to seek recovery of excess amount, in accordance with law.

DECEMBER 13, 2016

‘D. Gulati’

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned	:	yes/no
Whether reportable	:	yes/no