

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

FAO No.3664 of 2012

Date of decision : 30.05.2016

Vikas Goel

.....Appellant

Versus

Roshan Lal and others

...Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

- 1. Whether Reporters of the local papers may be allowed to see the judgment ? Yes*
- 2. To be referred to the Reporters or not ? Yes*
- 3. Whether the judgment should be reported in the Digest? Yes*

Present: Mr. J.S. Cooner, Advocate for appellant.

Respondents No.1 & 2 proceeded against *ex parte*.

Mr. Rajbir Singh, Advocate for
Mr. Sanjeev Goyal, Advocate for respondent
No.3-Insurance Company.

DARSHAN SINGH, J.

The present appeal has been preferred by the appellant-claimant against the award dated 16.03.2012, passed by the learned Motor Accidents Claims Tribunal, Ambala (hereinafter called the 'Tribunal') vide which the appellant-claimant has been awarded a sum of Rs.2,44,900/- as compensation on account of injuries suffered by him in the motor vehicular accident, which took place on 08.02.2010.

2. The present appeal has been preferred by the appellant-claimant for enhancement of amount of compensation.

3. During the pendency of appeal, the appellant-claimant has also filed an application under Order 41 Rule 27 of Code of Civil Procedure, 1908 for producing the disability certificate dated 23.11.2012 in the additional evidence.

4. The Co-ordinate Bench vide order dated 13.01.2014 has allowed the said application and the disability certificate dated 23.11.2012 (Annexure A-1) was taken on record subject to all just expenses.

5. Learned counsel for the respondent-Insurance Company contended that the disability certificate is not *per se* admissible document. The claimant has to lead the evidence to prove the said disability certificate and thereafter, the learned Tribunal has to reassess the amount of compensation. Learned counsel for the claimant has also not disputed the fact that the doctor who was the Member of the Medical Board has to be examined to prove the disability certificate and, thereafter, the learned Tribunal has to reassess the compensation.

6. The disability certificate dated 23.11.2012 was not available before the learned Tribunal at the time of passing the impugned award dated 16.03.2012 and has only been placed on record during the pendency of the present appeal. It is also not disputed that the disability certificate dated 23.11.2012 is not *per se* admissible document and has to be proved by the claimant by examining the doctor who was the Member of the Medical Board and, thereafter, the Tribunal has to reassess the compensation. Thus, in these circumstances the findings of the learned Tribunal on issue No.3 are hereby set aside and the present appeal is hereby partly allowed. The present

case is remanded to the learned Tribunal with a direction to record the additional evidence of the claimants with respect to the disability certificate dated 23.11.2012 issued by the Medical Board of PGI MER, Chandigarh. The claimant shall produce the original disability certificate before the learned Tribunal at the time of his additional evidence. The learned Tribunal shall also afford opportunity to the respondent to lead evidence, if any, in rebuttal to the additional evidence of the claimant. Thereafter, the learned Tribunal will assess the amount of compensation afresh.

7. The parties shall appear before the learned Tribunal on 23.07.2016.

30.05.2016

sunil yadav

(DARSHAN SINGH)
JUDGE