

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

FAO-524-2012

Date of decision: 19.02.2016

Parveen Garg

...Appellants

Versus

Sandeep Kumar and another

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. R.S. Mamli, Advocate,
for the appellant.

Mr. Neeraj Khanna, Advocate,
for the Insurance Company.

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JITENDRA CHAUHAN, J.

The present appeal has been filed by the claimant-appellant against dismissal his claim petition by the learned Motor Accident Claims Tribunal, Kurukshetra, ('the Tribunal', for brevity) vide impugned award dated 01.10.2011.

The learned counsel for the appellant contends that learned Tribunal erred in dismissing the claim petition of the appellant by holding that the claimant could not prove that he suffered any disability on account of the injuries sustained in the

accident.

On the other hand, the learned counsel for the Insurance Company has vehemently opposed the present appeal.

I have heard the learned counsel for the parties and perused the record.

It is an admitted fact that the claim petition was preferred by the claimant-appellant under Section 163-A of the Motor Vehicles Act (for short, 'the Act'). Sub-Section 1 of Section 163-A reads as under:-

163 – A. Special provisions as to payment of compensation on structured formula basis. – (1) Notwithstanding anything contained in this Act or in any other law for the time being in force or instrument having the force of law, the owner of the motor vehicle of the authorised insurer shall be liable to pay in the case of death or permanent disablement due to accident arising out of the use of motor vehicle compensation, as indicated in the Second Schedule, to the legal heirs or the victim, as the case may be.

Explanation. – For the purposes of this sub-section, “permanent disability” shall have the same meaning and extent as in the Workmen’s Compensation Act, 1923.

From the plain reading of the above provision, it is clear that in order to get the compensation, the claimant is required to prove that death or permanent disablement was caused due to the accident. In the present case, except the testimony of PW1, Parveen, the claimant-appellant, there is no evidence on record that the claimant suffered any permanent disability on account of the

injuries suffered by him in the accident. No medical evidence in the shape of testimony of the doctor or other medical record has been produced on record in this regard. The factum of permanent disablement is also not forthcoming in the testimony of Dr.Rajesh Sharma of Shah Hospital, who appeared as PW2, and deposed that he gave first aid treatment to the patient and referred him to Delhi due to his serious condition.

Thus, the learned Tribunal has rightly held the claimant petition of the appellant as not maintainable as neither it is a death case, not it is a case of permanent disability. The compensation has been rightly denied to the appellant.

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

19.02.2016
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(JITENDRA CHAUHAN)
JUDGE

The learned counsel contends that inadvertently, another appeal bearing FAO No.524 of 2012, was filed by the present appellant challenging the same impugned award dated 01.10.2011.

Thus, he seeks permission to withdraw the present appeal.

Dismissed as withdrawn.