

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

FAO No. 5024 of 2005

DATE OF DECISION : 28.07.2017

Nirmal Singh

.... APPELLANT

Versus

Harpreet Singh

.... RESPONDENT

CORAM :- HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr. B.P.S. Virk, Advocate,
for the appellant.

Mr. Anupam Singla, Advocate, for the respondent.

* * *

AVNEESH JHINGAN, J. (Oral)

1. This is an appeal filed by the claimant against the award dated 16.08.2005 passed by the Motor Accident Claims Tribunal, Fatehgarh Sahib (hereinafter referred to as 'the Tribunal').

2. The brief facts relevant for adjudication of the instant appeal are that the appellant herein filed a claim petition under Section 166 of the Motor Vehicles Act, 1988, before the Tribunal, stating that on 13.12.2002, he was going towards Gobindgarh in his van. At about 7.30 AM, a bus bearing registration No. PB-30-A-6565, which was being driven allegedly in a rash and negligent manner, came from the opposite side and struck against the van. The appellant – claimant suffered multiple injuries and both of his legs were amputated.

3. The owner-cum-driver of the bus was proceeded against ex parte.

4. The claimant pleaded before the Tribunal that the injuries suffered by him due to accident were so grievous in nature that the doctors of Rajendra Hospital, Patiala, could not save both the legs of the claimant and had to undergo amputation. It was further pleaded that the claimant remain admitted in the Hospital for sufficient long time and spent a huge amount for his treatment. The claimant further pleaded that he was a van driver and used to maintain his entire family including his wife and children who were fully dependent upon him. After the accident, he was having no source of income and his entire family was disturbed. Hence, the claimant filed the claim petition before the Tribunal claiming compensation to the tune of ₹ 10,00,000/- (ten lacs).

5. The Tribunal dismissed the claim petition, in spite of the fact that there was no denial of accident, suffering of multiple injuries including amputation of both the legs. Petition was dismissed on the ground that it has not been proved that the accident took place due to rash and negligent driving of the respondent. The Tribunal also took note of the fact that in the DDR, it was got recorded by the appellant – claimant that the accident took place due to fog and no body was to be blamed for the same. The Tribunal itself recorded that the DDR is not a substantive piece of evidence, yet it can be used for corroboration. Be that as it is, the fact remains that the accident took place, the appellant – claimant was injured and suffered a permanent disability, because of amputation of his both legs. In spite of all these facts, the claim petition was dismissed.

6. I have heard learned counsel for the parties and have gone through the record.

7. In my view, the award dated 16.08.2005 is liable to be set aside and the matter requires to be remanded to Tribunal for deciding it afresh, after providing opportunity to both the parties to lead their substantive evidence. It is, however, made clear that no opinion has been expressed on the merits of the case. Keeping in view the fact that the accident took place in the year 2003, it is desirable that the claim petition be decided expeditiously.

8. The parties are directed to appear before the Tribunal on September 01, 2017.

9. Appeal is, accordingly, disposed of.

July 28, 2017
ndj

(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No