

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

FAO No. 3795 of 2009

DATE OF DECISION : 03.11.2017

Rajeev Chauhan

.... APPELLANT

Versus

Sat Narayan and others

.... RESPONDENTS

CORAM :- HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr. P.R. Yadav, Advocate,
for the appellant.

Mr. Sandeep Suri, DAG, Advocate,
for respondent No.4.

* * *

AVNEESH JHINGAN, J. (Oral)

The present appeal has been filed against the award dated 30.05.2009 passed by the Motor Accident Claims Tribunal, Gurgaon (for short, 'the Tribunal').

A motor vehicular accident occurred between motor cycle bearing registration No. HR-26AE-6850 and a Roadways Bus bearing registration No. HR-63-1895, on 01.06.2006, and Rajeev Chauhan suffered injuries. He fell unconscious and was removed to Hospital. FIR was lodged.

A claim petition under Section 166 of the Motor Vehicles Act, 1988, was filed by the injured.

The Tribunal, after considering the witnesses and the evidence

available on record, awarded a sum of ₹ 1,24,000/- to the appellant along with interest at the rate of 7.5% per annum.

Aggrieved of the said award, the present appeal has been filed for enhancement of the compensation.

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

Learned counsel for the appellant argued that the Tribunal while awarding compensation has just noted the witnesses and evidence produced, but it has not appreciated the contents of the said depositions. He relies upon the deposition of PW.2 Dr. Umesh Gupta to show that there was contusion with laceration right lobe of liver with gross Hemoperitonium and the injured was taken for surgery. He further contends that while awarding the amount of ₹ 1,24,000/-, the Tribunal has just awarded ₹ 20,000/- for pain and sufferings, transportation and special diet. Rest of the amount is for medical expenses.

Learned counsel for respondent No.4 – Insurance Company, on the other hand, argued that the effect of the injuries has to be proved and it is only thereafter that just and equitable compensation can be awarded.

From the perusal of the record, it is evident that PW.2 had given a detailed deposition. It was further stated that there was a surgery. There are chances that there may be follow-up treatment. In these circumstances, it is deemed appropriate that the award dated 30.05.2009 is set aside and the matter is remitted back to the Tribunal to decide the matter

afresh after taking into consideration all the material produced before it.

The parties will be provided further opportunity to produce further evidence in support of their respective cases, if so required.

It is clarified that the remand proceedings would not effect the amount already awarded.

The parties are directed to appear before the Tribunal on December 22, 2017.

Appeal is, accordingly, disposed of.

November 03, 2017
ndj

(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	No