

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

FAO No.5584 of 2011

Date of Decision.29.09.2017

Kamlesh Kumar (since deceased) through LRs

.....Appellant

Vs

Sanjiv Kumar and others

.....Respondents

Present: Mr. Rujhan Dhawan, Advocate for
Mr. Sapan Dhir, Advocate
for the appellant.

Mr. Vijay Lath, Advocate and
Mr. Navin Sharma, Advocate
for respondent Nos.1 and 2.

Mr. Arun Sharma, Advocate for
Mr. T.K. Joshi, Advocate and
Mr. Neeraj Khanna, Advocate
for the insurance company.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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AMIT RAWAL J.(ORAL)

It is a case of injuries suffered by the claimant namely Kamlesh Kumar (since deceased).

Learned counsel appearing on behalf of the appellant submits that the claimant, aged 25 years at the time of accident, suffered grievous injuries in a motor accident that took place on 6.1.2007, resulting into 80% permanent disability. Despite the fact that the certificate of disability has been produced on record, the Tribunal has only assessed ₹1,81,000/- as compensation, which included ₹1,55,690/- on account of medical treatment and ₹25,000/- for pain and suffering. The claimant died after five years of the accident and the application for impleading the legal representatives of

the deceased-appellant has been allowed. The deceased being a rickshaw puller was not able to work due to injuries and therefore, not able to support the family in the same manner as he was doing prior to the accident, thus, the amount of compensation is liable to be enhanced by giving benefit to the family.

Learned counsel appearing on behalf of the insurance company submits that the claim of compensation for injuries suffered by a person in a motor accident is a personal claim and benefit of the same cannot be extended to the legal heirs. Even otherwise, the medical certificate to the extent of 80% permanent disability has not been proved on record in accordance with law, as no doctor or any member of the Board has been examined to prove the same. Mere exhibition of the document does not dispense with its proof. The amount of compensation is fair and just and does not call for interference.

I have heard learned counsel for the parties, appraised the paper book and of the view that though the fact *viz-a-viz* the death of the claimant is not in dispute but still for claiming the compensation by the legal heirs, some additional evidence was required to be placed on record by way of moving appropriate application to prove that the claimants had suffered loss of basic amenities to the family owing to the disability. Even no application has been moved to examine the doctor for proving the disability. It is too late in a day to put the clock back to give liberty to the legal heirs of the deceased-claimant to move such application, owing to the fact that the deceased died after five years of the accident on account of natural death on 25.01.2012.

In view of the observations made above, I do not intend to

differ with the finding arrived at by the Tribunal as noticed above. No ground for interference is made out. The appeal stands dismissed.

(AMIT RAWAL)
JUDGE

September 29, 2017
Pankaj*

Whether reasoned/speaking Yes

Whether reportable No