

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

FAO No. 6418 of 2011 (O&M)

Date of Decision:- 01.12.2017

Mohd. Ayub Bhat

....Appellant

Versus

Vasudev & Ors.

...Respondents

CORAM: HON'BLE MR.JUSTICE AVNEESH JHINGAN

Present: Mr. Amit Jaiswal, Advocate, for the appellant.

Mr. R.C. Kapoor, Advocate, for respondent No.3.

AVNEESH JHINGAN, J. (Oral)

Present appeal has been filed against the award dated 07.06.2011 passed by the Motor Accident Claims Tribunal, Panchkula (for short, 'the Tribunal').

The facts are that on 25.05.2007 Mohd. Ayub Bhat was going from his quarter at Village Billa Tehsil and District Panchkula to I.T.B.P Camp Bhanu. He was going on his bicycle and he met with an accident with rashly and negligently driven truck bearing registration No. HR-37-A-1214. As a result of the accident he suffered injuries which resulted into 35% permanent disability qua limb.

A claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act') was filed. The Tribunal awarded a sum of Rs.2,75,000/- along with interest @7.5% per annum.

The present appeal has been filed being aggrieved of the said award and for enhancement of the amount.

Learned counsel for the appellant has argued that the claimant is a constable in a combat force and with 35% permanent physical disability he would not be having any future promotions rather he would be at the mercy of the medical Board as the Board can retire him at any point of time. His grievance is that PW-1 Inspector on general duty ITBP Police Bhanu, Panchkula, deposed before the Tribunal. In his statement the facts have come on record that his permanent 35% disability qua the limb will virtually result into 100% functional disability qua his job. His grievance is that the Tribunal has not appreciated the evidence brought on record.

In such circumstances, the present appeal is remitted back to the Tribunal to look into the aspect of the functional disability as the appellant is a part of combat force.

Parties are directed to appear before the Tribunal on 10.01.2018. The parties would be at liberty to adduce afresh evidence, if so required in support of their case.

December 01, 2017
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(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No