

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

FAO No.2087 of 2013 (O&M)

Date of decision: February 15, 2017

National Insurance Company Limited

... Appellant

Versus

Sukhvinder Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. D.P. Gupta, Advocate for the appellant.
Mr. Sandeep Lather, Advocate for
Mr. Ravinder Malik, Advocate for respondent No.1.

Rajan Gupta, J.

Appellant National Insurance Company Limited has impugned the award dated 21.11.2012, passed by Motor Accident Claims Tribunal, Yamuna Nagar at Jagadhri, whereby compensation has been awarded to the claimant on account of injuries suffered by him in the accident.

Learned counsel for the appellant has argued that injury suffered by the claimant was a fracture, which was not covered under Schedule I of the Workmen Compensation Act, 1923. Thus, petition under section 163-A of the Act was not maintainable. He has relied upon a judgment reported as *Mohinder Singh versus Mahi Chand, 2013 (2) PLR 107*.

I have heard learned counsel for the appellant and given careful thought to the facts of the case.

Accident occurred on 10.6.2008, wherein claimant/

respondent No.1 received multiple grievous injuries. The claimant was employed as driver on the offending vehicle, which was being driven by another person namely, Kuldeep Singh respondent No.2 at the relevant time. Claimant filed a claim petition under section 163-A of the Act. The tribunal allowed the same awarding compensation to the tune of Rs.1,98,620/-. Dr. Mahavir Goel while appearing as PW-1 deposed that claimant suffered fracture of left side femur bone, for which he was operated. Dr. Depender Singh Sindhu PW-6 proved disability certificate showing 40% permanent disability on account of malunion of left side femur bone. I am of the considered view that the injuries suffered were not covered under Schedule-I of the Workmen Compensation Act. Thus, petition under Section 163-A of the Act was not maintainable, as is held by this court in *Mohinder Singh's case (supra)*.

In view of above, this appeal is allowed and impugned award passed by the tribunal is hereby set-aside.

(RAJAN GUPTA)
JUDGE

February 15, 2017
'Rajpal'

Whether speaking / reasoned

Yes / No

Whether Reportable:

Yes / No