

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

FAO No. 7525 of 2014 (O&M)

Date of decision:- January 31, 2017

RAFIK

....APPELLANT..

VERSUS

SAHOOD ALI AND OTHERS

....RESPONDENTS..

CORAM:- HON'BLE MR. JUSTICE JASPAL SINGH

Present:- Mr. Kunal Dawar, Advocate,
for the appellant.

Respondents No. 1 and 2 ex-parte.

Mr. Rajneesh Malhotra, Advocate,
for respondent No.3.

JASPAL SINGH, J. (Oral)

The instant appeal has been preferred by Rafik feeling aggrieved against the Award dated 06.05.2014 passed in MACT Case No.16 of 2012, captioned as “Rafik vs. Sahood Ali and others” whereby a sum of Rs.78364/- along with interest @ 6% per annum from the date of institution of the petition till realization was awarded, payable by respondent No.3- Insurance Company. The claimant has sought enhancement of the compensation on the ground that the amount so awarded is neither just nor adequate.

2. Along with the instant appeal, an application under Order 41 Rule 27 read with Section 151 CPC seeking permission to adduce additional

evidence i.e. the disability certificate issued by PGIMS Rohtak dated 28.05.2014 has also been filed.

3. Concededly, either on the presentation of claim petition before the Tribunal or at the time of disposal, the disability certificate was not available. In fact, the claimant is alleged to have been examined by the Medical Board of PGIMS Rohtak after the passing of the Award under appeal. On examination of appellant, 69% disability was assessed.

4. Undisputably, the disability certificate was not in existence or available with the appellant at the time of passing the Award. The production of disability certificate is necessary for the proper, effective and judicious adjudication of the matter in controversy. Accordingly, application under Order 41 Rule 27 CPC stands allowed and the findings recorded by the Id. Tribunal with regard to the quantum of compensation are set aside.

5. The matter is remitted to the Id. Tribunal, Palwal for allowing the appellant-claimant to adduce additional evidence in respect of disability certificate including the Medical Officer, if any, and then to decide a fresh, that too, after affording ample opportunity of hearing to both the parties.

6. Parties through their counsel are directed to appear before the Tribunal, Palwal on 21.02.2017.

January 31, 2017
sonika

(JASPAL SINGH)
JUDGE

Whether speaking/reasoned: Yes

Whether reportable: Yes/No