

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

F.A.O. No.4982 of 2002 (O&M)

Date of Decision: 03.12.2018

Dharambir

.....Appellant

Versus

Rambir and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Ramish Puri, Advocate
Amicus-curiae for the appellant.

None for respondents.

AVNEESH JHINGAN, J.(oral)

The award dated 14.09.2000 passed by Motor Accident Claims Tribunal, Gurgaon, (for short 'the Tribunal') has been assailed by the claimant seeking enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act').

The record of this appeal was burnt and from the salvaged record of the partially burnt cases, the same was reconstructed subject to all just exceptions and further verification.

The brief facts of the case are that on 26.7.1997, Dharambir was going from his village Kherki daula to Gurgaon on a scooter, which was being driven by his friend Dharmender. On their way, their scooter was hit by a rashly and negligently driven Jeep bearing registration No. DL-3-CR-5834 (hereinafter referred to as 'offending vehicle'). As a result of the impact, Dharambir suffered multiple injuries and was taken to Kalyani Hospital, Gurgaon, from where he was

referred to Apollo Inderprasth Hospital, New Delhi. FIR No. 1164 dated 26.07.1997 was registered. The petitioner remained admitted in the hospital till 12.08.1997.

A claim petition under Section 166 of the Act was filed. The Tribunal after considering the facts and on appreciating the evidence adduced held that the accident occurred due to the rash and negligent driving of the offending vehicle. The owner, driver and insurer of the offending vehicle were held jointly and severally liable to pay the compensation. The Tribunal awarded a sum of ₹ 2,00,000/- along with interest at the rate of 12% per annum.

Learned amicus-curiae for the appellant contended that there is a permanent disability to the extent of 50%, the amount awarded is on the lower side. The grievance raised is that the Tribunal has not compensated the appellant for various pecuniary and non-pecuniary damages. He further contends that it is a case of permanent disability but certain factual aspects need to be gone into for dealing with the issue of enhancement of compensation, for which further evidence may be required.

From the perusal of the award, it is evident that there is no cogent evidence on record to establish the occupation and earning of the appellant. Further, there is no evidence to establish the effect of permanent disability vis-a-vis, functional disability of the appellant. Since there is an amputation of limb, therefore, in order to arrive at just and equitable compensation, it would be appropriate to remit the matter back to the Tribunal for deciding the issue for quantum of compensation afresh.

The Tribunal shall afford effective opportunities to the parties concerned to adduce further evidence, if so desired.

The appeal is disposed of accordingly.

(AVNEESH JHINGAN)
JUDGE

03.12.2018
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Whether speaking/reasoned	Yes/No
Whether Reportable:	Yes/No