

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

FAO No.1220 of 1992(O&M)

Date of decision: 23.3.2018

Surender Singh

.....Appellant

VERSUS

Gurpal Singh and others

.....Respondents

CORAM: **HON'BLE MRS. JUSTICE REKHA MITTAL**

Present: Mr. Matinder Singh, Advocate the appellant.

Mr.Vinod Chaudhri, Advocate for respondent No.4.

REKHA MITTAL, J. (Oral)

The injured is in appeal seeking enhancement of compensation awarded by the Motor Accidents Claims Tribunal, Sonipat (in short 'the Tribunal') on account of injuries sustained in a motor vehicular accident that took place on 26.08.1988.

Perusal of the award particularly para 10 thereof would make it evident that the Tribunal has awarded an amount of Rs.25,000/- under three heads but calculated the total compensation at Rs.50,000/- in the concluding line of para 11 and accordingly awarded Rs.50,000/- with interest at the rate of 12% per annum from the date of petition as per para 16 under relief clause.

The sole submission made by counsel for the appellant is that as the injured became disable to the extent of 40%, permanent in nature

proved by Dr. K.K. Dua PW-4, he is entitled to compensation qua disability by applying multiplier method.

Counsel representing the insurance company, on the contrary, would urge that as the Tribunal has allowed compensation of Rs.25,000/- but held the claimant entitled to Rs.50,000/- with regard to an occurrence that took place in 1988, there is no justification for enhancement of compensation. However, he has fairly conceded that the vehicle in question stood insured with Oriental Insurance Co. Ltd. Ferozepur at the relevant time, therefore, insurance company may be liable to indemnify the insured, thus, liable to pay compensation.

The Tribunal has refused to rely upon testimony of Dr. K.K. Dua and certificate Ex.P7 for the reasons recorded in para 10 of the award. Counsel for the claimant is not in a position to produce copy of testimony of Dr. K.K. Dua for perusal and appreciation as records of the case have burnt in a fire incident. However, it appears that Dr. K.K. Dua is a private doctor and disability has not been assessed by authorized representative of the government much less a medical board constituted for the purpose. In the given scenario, I find myself unable to accept contention of the appellant that he is entitled to loss of future income by applying multiplier method qua disability to the tune of 40% assessed by Dr. K.K. Dua. This apart, as the Tribunal has assessed compensation of Rs.25,000/- but paid Rs.50,000/-, there is no justification for enhancement of compensation. However, as the vehicle in question stood insured with the aforesaid insurance company and the insurance company has failed to prove any defence available under Section 149(2) of the Motor Vehicles Act, 1988, the insurance company is jointly and severally liable to pay compensation.

For the foregoing reasons, the appeal is partly allowed in the aforesaid terms.

MARCH 23, 2018

‘D. Gulati’

(REKHA MITTAL)

JUDGE

Whether speaking/reasoned

:

yes/no

Whether reportable

:

yes/no