

101

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

FAO No.753 of 1995

Date of Decision: 10.08.2018

Prabhu

.....Appellant

Versus

Om Parkash Saini and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE B.S. WALIA

Present: Mr. Saurabh Kapoor, Advocate for
Mr. Ashit Malik, Advocate
for the appellant.

Mr. R.C. Kapoor, Advocate
for the respondent.

B.S. Walia J. (Oral)

1. Appellant has assailed the award inter-alia on the ground that despite his having suffered 80% disability the same has been treated as disability of earning at 50% of what he would have earned earlier. Learned counsel contends that the disability of 80% is evident from the certificate issued by the Medical Expert i.e. PW4 Dr. Ved Parkash Gupta, therefore, the award of the Tribunal treating the 80% disability as 50% disability is legally unsustainable.

2. Per contra, learned counsel for the respondent states that the Tribunal did not consider the certificate wholly reliable inasmuch as it had been issued on 18.12.1992, whereas signatures of the PMO were made thereon on 20.11.1992 besides the certificate did not mention whether the disability was permanent.

3. Learned counsel for the respondent states that in order to do complete justice between the parties, it would be appropriate to remand the matter to the Tribunal to enable fresh examination of the injured/appellant to be carried out to assess the disability as also the functional disability.

4. The course of action proposed by learned counsel for the respondent is acceptable to the learned counsel for the appellant.

5. In the light of the position as noted above, the matter is remanded to the learned MACT, Karnal to decide the issue with regard to the percentage of disability as also functional disability, if any, by giving opportunity to the parties to lead evidence in respect thereto. Since, the accident is of the year 1991, the learned Tribunal is requested to decide the claim as early as possible, preferably, within a period of four months from date of appearance of parties before it. Parties through counsel are directed to appear before the Tribunal on 04.09.2018. Record be also remitted to the learned Tribunal before the date fixed.

6. Disposed of as above.

August 10, 2018

sandeep/rajesh.k.khurana

(B.S.Walia)

Judge

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No