

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

FAO-964-1997 (O&M)

Date of decision:01.08.2018

The New India Assurance Company Limited

... Appellant

Vs.

Prem Singh & others

... Respondents

CORAM: HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA.

Present: Mr. Paul S. Saini, Advocate for the appellant.

Mr. T.K. Gupta, Advocate for

Mr. Rakesh Nagpal, Advocate for respondent No.1.

...

TEJINDER SINGH DHINDSA, J. (ORAL).

CM-18813-CII-2016:

Instant application has been filed under Order 22 Rule 4 CPC read with Section 151 CPC for impleading the legal representatives of respondent No.3/Shamsher Singh, who is stated to have since expired.

2. In view of the averments made in the application, which is duly supported by an affidavit, application is allowed subject to all just exceptions. The legal representatives, whose details have been furnished in para 2 of the application are brought on record. The accompanying amended Memo of Parties is also taken on record.

3. Application is disposed of.

Main case:

Instant appeal has been preferred by the New India Assurance Company Limited assailing the award dated 03.12.1996 announced by the Motor Accident Claims Tribunal, Kaithal and in terms of which an amount

of Rs.1,60,000/- along with interest at the rate of 12% per annum from the date of filing of the claim petition till realization has been awarded to the claimant/respondents herein on account of the injuries suffered in an accident that took place on 21.02.1993.

2. Briefly, it may be noticed that the claim petition has been filed under Sections 140/166 of the Motor Vehicles Act by Prem Parkash-injured by stating that on 21.02.1993, he was travelling in a canter vehicle and proceeding towards Kaithal and another truck make Mazda bearing registration No. HR-31-2308 was being driven in a rash and negligent manner and struck against the vehicle in which the injured was travelling. Claimant/ respondents was initially admitted in Civil Hospital, Kaithal but subsequently, shifted to Medical College, Rohtak for treatment. FIR pertaining to the accident was also lodged on 22.02.1993.

3. The claim petition was contested by the parties including the appellant/Insurance Company and on the pleadings of the parties, the following issues were framed:

- “1. Whether the accident resulting in injuries to Pre Parkash took place due to rash and negligent driving of Krishan Lal driver of canter No.DL-IL-1478 or Shamsheer Singh driver of Mazda No.HR-31-2308? OPP.*
- 2. If issue No.1 proved in affirmative what amount of compensation is that claimant entitled and from whom? OPP*
- 3. Whether the drivers of the offending vehicle did not possess valid driving license? OPR*
- 4. Whether the insurance company is not liable on the grounds stated in the P.Os.? OPR*
- 5. Relief.”*

4. Pleadings on record and grounds of appeal in the instant appeal

would bear out that the only issue raised in the instant appeal is with regard to quantum of compensation and as such, this Court would only advert to the findings recorded by the Tribunal as regards issue No.2.

5. The Tribunal has awarded a sum of Rs.40,000/- towards expenses spent on treatment/medicines. Against the permanent disability element suffered by the claimant, an amount of Rs.60,000/- has been awarded. Rs.40,000/- has been awarded under the head of mental agony and physical suffering. That apart, a lump sum amount of Rs.20,000/- has been awarded towards loss of earning. It may also be apposite to take note that no cross objections/appeal was filed by the claimant seeking enhancement of compensation.

6. Having heard counsel for the parties at length, this Court is of the considered view that the amount of compensation awarded by the Tribunal in the impugned award i.e. Rs.1,60,000/- in favour of claimant/respondent does not call for any interference.

7. The injured/respondent is stated to have remained admitted at Medical College, Rohtak initially for a period of almost six weeks. Thereafter, he was again admitted for a period of 20 days and had undergone four surgical interventions. Documentary and oral evidence in the nature of disability certificate as also deposition of Dr. Nitin Mehta, PW3 would indicate that the claimant/respondent had suffered 75% permanent disability on account of infected non-union fracture right femure. Ex.P4 to P14 had been adduced and proved on record bearing out the expenses borne of by the claimant for his treatment. Ex. P175 to P188 were the treatment slip, discharge card of Medical College, Rohtak as also other hospitals.

8. Against the backdrop of the nature of injuries suffered by the respondent, the permanent disability element that was duly proved on record, period of hospitalization and the mental agony and physical pain that he had suffered, the amount awarded by the Tribunal i.e. Rs.1,60,000/- cannot be considered to be excessive and unreasonable.

9. No interference is called for.

10. Appeal is dismissed.

01.08.2018

harjeet

(TEJINDER SINGH DHINDSA)

JUDGE

i) Whether speaking/reasoned? Yes/No

ii) Whether reportable? Yes/No