

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

FAO No. 2857 of 2009 (O&M)

Date of Decision:09.02.2018

Balwan Singh

.....Appellant

Versus

Sarwan Nath and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Parmod Parmar, Advocate
for the appellant.

Mr. Gopal Mittal, Advocate
for respondent No.3-Insurance Company.

AVNEESH JHINGAN, J.(oral)

This appeal arise out of award dated 02.01.2009 passed by the Motor Accidents Claims Tribunal (Fast Track Court) Bhiwani (for short 'the Tribunal').

Balwan Singh was going on a jeep bearing registration No.HR-17-1401. A rashly and negligently driven truck bearing registration No.RJ-07G-1621 dashed into the jeep. The accident took place on 15.11.2006. He was taken to hospital and remained admitted till 04.12.2006. Thereafter again he remained admitted in hospital from 07.05.2007 to 09.05.2007. FIR No. 145 dated 17.11.2006 was registered. In a claim petition filed under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act'), the Tribunal awarded a sum of Rs. 1,69,067/- alongwith interest at the rate of 7% per annum.

Learned counsel appearing on behalf of the appellant assailed the award arguing that the appellant was a Mechanic and was a skilled labourer whereas the Tribunal has considered him as a labourer. Disability certificate was produced before the Tribunal showing that there was 47%

permanent disability. The Tribunal has not taken into account the disability certificate in its proper prospective.

The Tribunal while assessing the compensation in case of injuries has to take into account the permanent disability and its effect on the functional ability.

Without expressing any opinion on the merit of the case, the matter is remanded back to the Tribunal to be decided afresh after permitting the parties to adduce fresh evidence, if so required in support of their claim. It is however made clear that the amount already awarded would be subject to the remand proceedings.

Parties are directed to appear before the Tribunal on 01.03.2018.

09.02.2018
reema

(AVNEESH JHINGAN)
JUDGE

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