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

**FAO No.4194 of 2009 (O&M)
Date of Decision: 27.11.2018**

Ranroop Singh

Appellant

Versus

Mukesh and another

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. C.K. Rana, Advocate for
Mr. Satbir Rathore, Advocate
for the appellant.

Mr. Pardeep Goyal, Advocate
for the Insurance Company.

AVNEESH JHINGAN, J (Oral):

The award dated 28.03.2009 passed by the Motor Accident Claims Tribunal, Ropar [for brevity 'the Tribunal'] has been assailed by the claimant seeking enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 [for brevity '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 necessary for adjudication of the present appeal are that on 23.05.2007, a motor vehicular accident occurred

involving a motor cycle bearing registration No. PB-65C-9171 and a truck bearing registration No. HR-55-6519 (hereinafter referred to as 'offending vehicle'). In the accident, appellant suffered multiple injuries which resulted into permanent disability.

A claim petition under Section 166 of the Act was filed before the Tribunal. The Tribunal, after considering the facts and appreciating the evidence adduced, held that accident occurred due to rash and negligent driving of the offending vehicle. The owner-cum-driver and insurer of the offending vehicle were held jointly and severally liable to pay the compensation. The Tribunal awarded ₹2,50,000/- as compensation alongwith interest @ 6% per annum.

During the pendency of the appeal, an application under Order XLI Rule 27 of Code of Civil Procedure, 1908 [for brevity 'CPC'] was moved for placing on record additional evidence. Consequently, disability certificate and certain medical bills has been produced.

Learned counsel for the appellant contended that appellant had suffered 60% permanent disability and as a result of the injuries sustained in the accident, the said permanent disability has increased to the extent of 80%. His grievance is that certain medical bills need to be considered while awarding compensation.

Learned counsel for the insurer had filed reply to the application filed under Order XLI Rule 27 CPC. The Insurance Company was directed to verify the disability certificate as well as the medical bills. Inspite of number of opportunities, verification

report has not been filed. The litigation is under a welfare legislation. The appellant is hard pressed because of the disability suffered. Apart from the verification of the disability certificate and medical bills, certain factual aspects also needs to be considered for deciding extent of functional disability suffered by the appellant due to injuries sustained in the accident.

Keeping in view the facts and circumstances of the case, the matter is remitted back to the Tribunal only with regard to enhancement of compensation. The Tribunal shall decide the issue of enhancement of compensation in accordance with law after affording an opportunity to the parties concerned to adduce fresh evidence in support of their claim, if so desired.

Evidence produced before this Court alongwith application be sent to the Tribunal.

The parties are directed to appear before the Tribunal on 15.01.2019.

[AVNEESH JHINGAN]
JUDGE

November 27, 2018

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| 1. Whether speaking/ reasoned | : | Yes/ No |
| 2. Whether reportable | : | Yes/ No |