

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

F.A.O. No. 2515 of 2010(O&M)

Date of Decision: 23.02.2018.

Gurcharan Singh

.....Appellant

Versus

Lakhbir Singh and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

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

Mr. Gopal Mittal, Advocate
for respondent No.3.

AVNEESH JHINGAN, J.

The appeal has arisen from award dated 26.11.2009 passed by the Motor Accident Claims Tribunal, Rupnagar (for short 'the Tribunal').

An accident took place on 30.05.2007 in which Gurcharan Singh suffered injuries. Gurcharan Singh alongwith his son was going on foot. Near Chowk Morinda at about 7:30 p.m., a rashly and negligently driven Jeep bearing registration No.RJL-6490 (for short 'the offending vehicle'), struck against Gurcharan Singh. His right arm and right leg were fractured. He was taken to Kakkar Hospital, Morinda, from where he was got admitted in Indus Hospital, Phase 3B2 Mohali. He was referred to PGIMER, Chandigarh on 31.05.2007.

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. 1,20,000/- alongwith interest at the rate of 9% per annum.

Respondent No.3-Insurer of the Jeep was absolved from paying compensation. Respondents No. 1 and 2 driver and owner of the offending

vehicle were held jointly and severally liable to pay the compensation.

The appeal has been filed for enhancement of compensation.

No one appears on behalf of respondents No. 1 and 2 inspite of service.

The grievance raised by learned counsel for the appellant *inter-alia* is that the amount awarded for permanent disability has not been calculated in accordance with law.

From perusal of award it is evident that the Tribunal while calculating the compensation has applied the percentage of disability qua limb as it as a multiplier instead of assessing functional disability. As per the Supreme Court decision in case of **Raj Kumar Versus Ajay Kumar, 2011 (1) SCC 343**, the disability percentage qua limb cannot be applied as it is. The other issues raised also need certain facts to be gone into.

Without expressing any opinion on the merits of the case, the matter is remitted back to the Tribunal to decide the issue of enhancement of compensation afresh after affording opportunity to both the parties.

Ordered accordingly.

Since the Insurance Company has been absolved from the liability, the contesting parties would be only the claimants, owner and driver of the vehicle.

Parties are directed to appear before the Tribunal on 26.03.2018.

23.02.2018

reema

(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned
Whether Reportable:

Yes/No
Yes/No