

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

FAO No. 2696 of 2011

DATE OF DECISION : 15.01.2018

Sunny Gera

.... APPELLANT

Versus

Amar Nath and others

.... RESPONDENTS

CORAM :- HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr. Surinder Dagar, Advocate,
for the appellant.

Ms. Vandana Malhotra, Advocate,
for respondent No.3.

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AVNEESH JHINGAN, J. (Oral)

The present appeal has been filed against the award dated 28.09.2010 passed by the Motor Accident Claims Tribunal, Gurgaon (for short, 'the Tribunal').

Sunny Gera allegedly working as Assistant Steward with Sartaj Utility Services, met with a motor vehicular accident on 12.10.2009. He was going on motor cycle bearing registration No. HR-26AM-7876, Trola bearing registration No. HR-38L-0264 hit his motor cycle. As a result of the accident, the appellant suffered multiple injuries, resulting into amputation of his left leg below the knee.

In a claim petition filed under Section 166 of the Motor

Vehicles Act, 1988, a sum of ₹ 6,11,500/- was awarded, which included the amount of ₹ 1,20,000/- for permanent disability.

Learned counsel for the appellant, inter-alia, argued that a lump sum amount of compensation has been awarded for disability, whereas the multiplier method should have been applied.

The contention raised by learned counsel for the appellant is supported by the decision of the Hon'ble Apex Court in **Raj Kumar Vs. Ajay Kumar and another, 2011 (1) SCC 343**, wherein it has been held that in case of permanent disability, multiplier method is the best method for awarding compensation. There is a factual aspect, which needs to be proved on record, i.e. what is the effect of permanent disability qua functional ability of the claimant. The Hon'ble Apex Court has held that percentage of permanent disability qua limb should not be taken for assessing loss of earning.

In such circumstances, the matter is remitted back to the Tribunal to decide the issue of enhancement of compensation afresh, after providing opportunity to both the parties to adduce evidence in support of their respective cases.

Both the parties are directed to appear before the Tribunal on February 19, 2018.

The appeal is, accordingly, disposed of.

January 15, 2018
ndj

(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned Yes/No

Whether Reportable Yes/No