

**211-b IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

FAO No. 6786 of 2011 (O&M)

Date of decision : December 13, 2018

Ravi Kumar Malhotra

.....Appellant

Versus

Rajesh Kumar and another

....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Amit Singla, Advocate
 for the appellant.

None for respondent No. 1.

Mr. Lalit Garg, Advocate
for respondent No. 4 - insurance company.

LISA GILL, J.

This appeal has been filed challenging award dated 01.10.2009 passed by learned Motor Accident Claims Tribunal, Hisar whereby claim petition filed under Section 163-A of the Motor Vehicles Act (for short – 'the Act') by the appellant – claimant was dismissed.

The claimant - appellant pleaded that he was involved in a motor vehicle accident which took place on 20.06.2004. He alongwith Vikas received injuries in the said accident and another person namely Surender had died. Claim petition filed by the present applicant – appellant was dismissed by the learned Tribunal on the ground that he was admittedly a government employee posted with the Haryana Roadways Depot, Fatehabad earning ₹8,000/- per month. Therefore, petition under Section 163A of the Act was held to be not maintainable.

Aggrieved therefrom, present appeal has been filed.

Heard, learned counsel for the parties.

Learned counsel for the appellant is unable to deny that
the appellant at the time of the accident was indeed serving the Haryana

Roadways Depot, Fatehabad. As per the evidence of PW11, who proved the salary certificate (Ex.PW11/A), the appellant was getting gross salary of ₹5,636/- in the month of June, 2004 and net salary of ₹4,883/- per month. In the claim petition filed by the appellant, he claimed his monthly income to be ₹9,600/- as he had been earning overtime allowance as well. The appellant was admittedly earning more than ₹40,000/- per annum. An application was moved by the appellant under Order 6 Rule 17 CPC to reduce his income as well as his claim for compensation as originally raised. Said application for amendment was dismissed by the learned Tribunal and the said decision was upheld by this Court. Therefore, impugned award dated 01.10.2009 has been correctly passed by the learned Tribunal. Learned counsel for the appellant is unable to point out any illegality, infirmity or perversity therein which calls for any interference by this Court.

No other argument has been raised.

There is a delay of 512 days in filing and 65 days in re-filing of the present appeal. Keeping in view the fact that the matter has been decided on merits, the question of delay in filing and re-filing of this appeal has been rendered academic. Applications are, accordingly, disposed of.

Accordingly, this appeal being devoid of any merit is dismissed with no order as to cost.

December 13, 2018
rts

(Lisa Gill)
Judge

Whether speaking/reasoned :	Yes/No
Whether reportable :	Yes/No