

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

FAO No.1532 of 2014 (O&M)

Date of decision: 22.05.2018

Dalbir Singh

.... Appellant

Versus

Surender and others

..... Respondents

**CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN**

Present : Mr.Rajinder Goyal, Advocate  
for the appellant.

Mr. Sandeep Dhull, Advocate  
for respondents No.1 and 2.

Mr.Suvir Dewan, Advocate  
for respondents No.3 and 5.

Mr.V.S.Rana, Advocate  
for respondent No.4.

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**Avneesh Jhingan, J.**

The present appeal has been filed against the award dated 08.10.2013 passed by Motor Accidents Claims Tribunal, Kaithal (hereinafter referred to as 'the Tribunal').

Dalbir Singh, aged 40 years, suffered injuries in a motor vehicular accident that occurred on 17.01.2010. FIR No.6 dated 17.01.2010 was registered.

A claim petition under Section 163-A of Motor Vehicles Act, 1988 (for short, 'the Act') was filed.

The claim petition was dismissed by the Tribunal mainly on the ground that rash and negligent driving of the offending vehicle was not

proved. Further, it was held that disability certificate Ex.P33 was not proved by way of examining the doctor.

So far as the first issue is concerned, the finding of the Tribunal cannot be upheld. There is no onus on the claimant to prove the rash and negligent driving of the offending vehicle in claim petition filed under Section 163-A of the Act. So far as the second issue is concerned that the disability certificate was not proved, the appellants are given one more opportunity to adduce evidence in support of the disability certificate and to show that the disability suffered comes within the preview of II<sup>nd</sup> schedule of the Act.

Without expressing any opinion on the merits of the case, the matter is remitted back to the Tribunal to decide the issue regarding compensation in accordance with law.

Appeal is disposed of.

(AVNEESH JHINGAN)  
JUDGE

22.05.2018

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1. Whether the order is speaking/reasoned: Yes/No

2. Whether the order is reportable : Yes/No