IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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FAO No.2208 of 2014 (O & M)
Date of Decision:18.04.2018

Oriental Insurance Co. Ltd. ...Appellant

Versus

Ram Avtar and others ...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Neeraj Khanna, Advocate
for the appellant.

Mr. Sandeep Kumar Yadav, Advocate
for respondent No.1.

ANIL KSHETARPAL, J.(Oral)

Insurance Company is in the appeal against award passed by the learned Motor Accident Claims Tribunal awarding a sum of Rs.16,11,825/- on account of permanent disability to the extent of 80% suffered by respondent No.1-claimant.

Learned counsel for the Insurance Company has submitted that the amount awarded is excessive. He has pointed out that the loss of earning has been calculated at Rs.7,39,200/- by taking the income as Rs.7,000/- per month. He submits that in absence of any proof of earnings only minimum wages as payable to the unskilled labour could be taken into consideration. On the other hand, learned counsel for the respondent has pointed out that the respondent has appeared in the witness box and has submitted that he was a skilled person, who was involved in binding of electric motors. He has further submitted that the respondent was about 52 years of age on the date of the accident. He has further pointed out that there is an amputation of right leg above knee.

Learned counsel for the appellant has further submitted that once loss of earning, reduction in the life expectancy and loss of amenities have already been awarded, separate amount of permanent disability could not be awarded. To this, learned counsel for the respondent, does not have any serious objection.

Looking at the other heads, respondent No.1 has been awarded on account of medical expenses, transportation, future medical treatment, reduction in life expectancy/loss of amenties, special diet and attendant charges.

Taking into consideration the aforesaid facts, the amount awarded by the learned Motor Accident Claims Tribunal is reduced by Rs.1,60,000/- under the head of permanent disability. Thus, the total amount which becomes payable is Rs.14,81,825/-. The appeal of the Insurance Company is partly accepted by reducing the amount to Rs.14,81,825/-. This amount shall be payable along with the interest as awarded by the learned Motor Accident Claims Tribunal within a period of two months, if not already paid.

Learned counsel for the Insurance Company has further submitted that the driving licence of respondent-Raj Kumar, the alleged driver, was produced before the learned Motor Accident Claims Tribunal at last stage. He has submitted that Insurance Company was not given proper opportunity to verify the correctness of the aforesaid driving licence.

Learned counsel for the Insurance Company has pointed out that along with appeal, an application under Order 41 Rule 27 of the Code of Civil Procedure has been filed for permission to produce on file the verification report, according to which, the driving licence has not been issued in the name of respondent No.2. Annexure A-1 is the copy of Form 54 issued by the Licensing Officer, Mathura with respect to the driving license, which was produced in evidence.

Keeping in view the aforesaid facts, application for additional evidence is allowed. Since this document would be required to be proved by leading evidence, therefore, learned Motor Accident Claims Tribunal is requested to grant opportunity to the parties to lead evidence and send a report to this Court along with the evidence so recorded.

Since, no one is present on behalf of respondent Nos.2 and 3, the owner and driver of the bus, therefore, learned Motor Accident Claims Tribunal would issue fresh notice to the owner and the driver and thereafter record evidence. Report be submitted to this Court within a period of six months from today.

Parties through their counsel appearing before the learned Motor Accident Claims Tribunal on 09.05.2018.

To come up on 29.11.2018.

18.04.2018 **(ANIL KSHETARPAL)**
sheetal **JUDGE**

Whether Speaking/Reasoned: Yes/No
Whether Reportable : Yes/No