

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

F.A.O. No. 325 of 2014 (O&M)

Date of Decision: 09.05.2018

Joginder

.....Appellant

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Ashwani Arora, Advocate
for the appellant.

Mr. Sandeep S. Mann, Sr. DAG Haryana for
respondent No.1.

Mr. Sanjeev Goyal, Advocate
for respondent No.3-Insurance Company.

AVNEESH JHINGAN, J.(oral)

The present appeal has been filed against the award dated 18.04.2013 passed by the Motor Accident Claims Tribunal, Chandigarh (for short 'the Tribunal') for enhancement of compensation.

In a motor vehicular accident that occurred on 24.05.2009 Joginder Singh driver of a three-wheeler suffered grievous injuries when a Haryana Roadways bus bearing registration No.HR-45-8405 struck against the three-wheeler. As a result of the injuries suffered in the accident, he suffered 43% permanent disability qua both the lower limbs. He remained under treatment for almost 3 ½ years. He was operated upon. PW2 Doctor Sudesh Perbam deposed to prove the disability certificate. In his deposition Doctor stated that because of disability of lower limbs, the injured is likely

to have difficulty in driving. It has further come on record in the statement of Doctor that since the date of accident till 07.03.2013 he could not have worked as a driver. The Tribunal had awarded a sum of Rs.6,47,204/- which included loss of future earnings of Rs.3,06,504/-.

In the present appeal, apart from other grievances, one of the grievance raised is that the Tribunal erred in applying the percentage of disability qua the limbs as a multiplier for calculating the compensation. The grievance of the learned counsel for the appellant is that it is a case of 100% functional disability.

Learned counsel for the insurer of the offending vehicle argued that the Tribunal should not have applied the percentage of disability qua the limbs as such for calculating the compensation because the said percentage was not qua whole body. He further argued that accident took place in the year 2009 and there is nothing on record to show that the disability was re-assessed and there is no improvement.

Learned counsel for the appellant has no objection even if disability of the appellant is re-assessed by the Medical Board.

In view of the above facts, the matter is remitted back to the Tribunal to decide the issue of enhancement of compensation after re-assessment of the disability of the appellant. Since, re-assessment is being made, it would be desirable if the effect of the disability qua the functional ability is also determined. The insurer of the offending vehicle would pay Rs.25,000/- as legal expenses to the appellant for remand proceedings.

Since the only issue is regarding quantum of compensation and the compensation is to be paid by Insurance Company, the presence of driver of the offending vehicle is dispensed with before the Tribunal. The

Tribunal will also consider as if the compensation under the same head has been awarded twice.

The parties are directed to appear before the Tribunal on 10.07.2018.

09.05.2018
reema

(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable:	Yes/No