

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO NO.1186 of 2016 (O&M)

Date of Order:09.08.2018

Krishan Kumar

..Appellant

Versus

Bharti Axa General Insurance Co. Ltd.
and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Kunal Dawar, Advocate,
for the appellant.

ANIL KSHETARPAL, J(Oral)

Owner of the offending vehicle-appellant is in the appeal against the award passed by the Motor Accident Claims Tribunal, Gurgaon, (hereinafter referred to as 'the Tribunal') dated 23.09.2015, awarding compensation of Rs.14,36,290/- to the injured- claimant whose left leg was amputated and the court found that he has suffered 80% permanent disability.

Injured-claimant at the relevant time was 44 years of age, working as a sweeper with Hero Honda Company through contractor. In order to prove his income claimant produced salary slip for the month of November, Ex.PW5/2, for Rs.7271/-.

It may be noted that respondents did not lead any evidence. Claimant himself has appeared in the witness box as PW5. It is also not in dispute that in the criminal case, driver of the vehicle has been charge sheeted and official of the courts has been examined as PW6.

After taking into consideration various factors, the learned Tribunal has awarded compensation against the owner and driver of the

vehicle as claimant was found to be travelling in a goods vehicle as a gratuitous passenger.

Learned counsel for the appellant has submitted that no official from the Hero Honda Company where deceased was employed has been examined, He further submitted that since the vehicle was insured, therefore, the learned Tribunal erred in absolving the insurance company.

This court has considered the submissions.

Learned counsel for the appellant has read over statement of PW5, the claimant-respondent-injured, who produced salary slip. From the reading of the evidence, it is apparent that correctness of the aforesaid salary slip was not specifically questioned by the respondents in the cross-examination. Hence, the appellant cannot be permitted to press this issue particularly when the evidence of the claimant has gone unchallenged in the cross-examination.

Next argument of learned counsel is also without substance because claimant was travelling in a goods vehicle i.e. the truck. He had claimed that he was a gratuitous passenger. Learned Tribunal after examining the insurance policy, has found that the gratuitous passenger travelling in the goods vehicle was not covered by the insured.

Keeping in view the aforesaid facts, this court does not find any good ground to interfere with the award passed by the learned Motor Accident Claims Tribunal, Gurgaon.

The appeal is dismissed.

August 09, 2018
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned
Whether reportable

: Yes/No
: Yes/No