

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

FAO No. 2766 of 2016 (O&M)

Date of decision:- 18.04.2018

Gaurav Kaushik

...Appellant

Versus

Davinder Kumar and ors.

...Respondent

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. Saurabh Bhardwaj, Advocate
for the applicant-appellant

Mr. Vishwajit Bedi, Advocate
for respondent No. 3

RITU BAHRI J. (Oral)

C.M. No. 10285-CII-2016

For the reasons mentioned in the application, delay of 88 days
in filing of the appeal is hereby condoned.

The application stands disposed of accordingly.

FAO No. 2766-2016

The present appeal has been preferred by the claimant-appellant
(for short 'the appellant'), against award dated 11.03.2015 passed by the
learned Motor Accident Claims Tribunal, Yamuna Nagar at Jagadhari (for
short, 'the Tribunal') whereby the appellant was awarded Rs.88316/- on
account of damage of his vehicle in a motor vehicular accident, which took
place on 02.08.2012.

The parties are not in dispute with regard to finding on issue
No. 1 i.e rash and negligent driving of respondent No. 1.

However, learned counsel for the appellant is relying upon

surveyor report (Ex P-6) whereby it has been stated that the amount of Rs.1,76,636 was to be incurred in the repairing of the vehicle of the appellant. The learned Tribunal has awarded 50% of Rs.1,76,636/- only on the ground that no bills were produced by the appellant.

The appeal deserves to be partly allowed, as in view of claim policy (Ex R2), the damaged vehicle was insured up to the amount of Rs.2,00,000/- and thus the appellant could have been awarded more than 50% of Rs.1,76,636/-.

Since the appellant has not produced the bills incurred on his vehicle, this appeal is partly allowed and the impugned award dated 11.03.2015 is modified to the extent that the appellant is entitled to 75% of Rs.1,76,636/- i.e Rs.1,32,477/- instead of Rs.88,316/-. The enhanced amount of compensation of Rs.44,161/- shall be payable within a period of forty five days from the date of receipt of certified copy of this order. The appellant shall also get interest @ 7.5% per annum from the date of filing of the petition, in view of the judgment of Hon'ble the Supreme Court in a case of *Shri Nagar Mal and ors vs. The Oriental Insurance Co. Ltd and others, passed in Civil Appeal No. 448-2018., decided on 19.01.2018*. The remaining conditions of disbursal of amount and recovery rights shall remain unaltered.

April 18, 2018
G Arora

(**RITU BAHRI**)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No