

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

-.-

FAO 872 of 2013 (O&M)
Date of decision: 30.04.2018

Shokeen

..... *Appellant*

Versus

Mushtak and others

.....*Respondents*

Coram: Hon'ble Mrs. Justice Rekha Mittal

-.-

Present: Mr. Sanjeev K Bawa, Advocate
for the appellant

None for respondents No. 1 and 2

Ms Vandanaa Malhotra, Advocate and
Ms Monica Jangra, Advocate
for respondent No. 3

-.-

Rekha Mittal, J. (Oral)

The present appeal directs challenge against award dated 13.10.2012 passed by the Motor Accidents Claims Tribunal, Nuh (hereinafter to be referred as 'the Tribunal') whereby application for grant of compensation filed under Section 163-A of the Motor Vehicles Act, 1988 (in brevity, 'the Act') has been dismissed primarily on the ground that in disability certificate, Ex.PW3/A, there is reference to disability of 15% but Record Keeper Shabuddin (PW3) examined by the claimant has stated in his cross examination that in the record, disability is written as 5% but in the disability certificate, it is mentioned as 15%.

Counsel for the appellant would state that even if the Tribunal had any doubt in its mind on the basis of discrepancy noticed herein before, the Tribunal was competent to examine one of the Members of the Medical Board to appreciate correctness or otherwise of the disability certificate. He has prayed that the award passed by the Tribunal may be set aside with liberty to examine one of the Members of the Medical Board to prove disability in accordance with law on the basis of records maintained in the office of the concerned authority.

Counsel representing the insurance company has got no objection.

There is no representation on behalf of respondents No. 1 and 2, earlier being represented by a counsel.

The provisions of the Act dealing with grant of compensation have been enacted with a clear intent to provide just and reasonable compensation to make good the loss in terms of money, suffered by the victim or his family. As has been rightly argued by counsel for the claimant, the Tribunal was well within its power to examine one of the Members of the Medical Board to appreciate correctness or otherwise of the disability certificate Ex.PW3/A.

Taking into consideration the legislative intent behind the provisions of Section 163-A of the Act, it is expedient in the interest of justice that the award passed by the Tribunal is set aside and the matter is remitted to the Tribunal for adjudication afresh on the basis of materials already on record and additional evidence to be adduced by the claimant, evidence in rebuttal to be adduced by the respondents.

For the foregoing reasons, the appeal stands disposed of in the aforesaid terms. The parties through their counsel are directed to appear before the Tribunal on 29.05.2018.

(Rekha Mittal)
Judge

30.04.2018
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Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No