

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

FAO-4983-2015 (O&M)
Date of decision: 13.03.2018

KARANVIR GANDOTRA

... Appellant

Versus

SANJAY KUMAR & ANR

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Vikash Garg, Advocate for
Mr. Jaivir S. Chandail, Advocate
for the appellant.

Mr. M.K. Garg, Advocate
for the insurance company.

REKHA MITTAL, J. (Oral)

Counsel for the appellant would state that he has moved an application for adducing additional evidence to prove disability certificate dated 18.03.2016 (Annexure A1).

Counsel for the insurance company would state that earlier during pendency of proceeding before the Tribunal, photocopy of disability certificate Ex.PW2/A purported to be issued by GMHS, Sector 16, Chandigarh was produced and the Tribunal refused to rely upon the said certificate for the reasons assigned in para 25 of the award.

Perusal of para 25 of the award would reveal that the Tribunal refused to rely upon disability certificate Ex.PW2/A on two counts namely

that it cannot be held that disability to the extent of 75% suffered by the claimant is on account of injuries sustained in the accident dated 28.10.2010. The doctor who issued certificate Ex.PW2/A has not been examined and the Tribunal is unable to connect disability mentioned in Ex.PW2/A with the accident dated 28.10.2010.

As per the settled position in law, Tribunal has an obligation to assess just and reasonable compensation. The Tribunal could call upon the claimant to examine the doctor concerned to prove disability certificate Ex.PW2/A. The provisions of Motor Vehicles Act, 1988 providing for compensation are benevolent legislation enacted with a social object to achieve in order to compensate the victim for the loss as the money can do. In the given circumstances, it is expedient in the interest of justice that the matter is remitted to the Tribunal for assessment of compensation qua injuries sustained by the victim by giving him an opportunity to prove disability certificate (Annexure A1) by examining a member of the medical board, in accordance with law. If the claimant leads evidence to prove disability, the insurance company shall be entitled to an opportunity to lead evidence in rebuttal.

For the foregoing reasons, the appeal is disposed of. Findings recorded by the Tribunal on issue No.2 are set aside with a direction to make assessment afresh on the basis of materials already on record and additional evidence to be adduced by the claimant to prove the disability certificate (Annexure A1), in accordance with law. If the claimant adduces

evidence to prove disability certificate, the insurance company shall be entitled to an opportunity to lead evidence in rebuttal. The parties through their counsel are directed to appear before the Tribunal on 06.04.2018. The Tribunal is directed to complete the entire exercise within a period of three months from the parties putting in appearance. In the meanwhile, the insurance company shall not recover compensation, if any, already paid to the claimant.

13.03.2018

ashok

(REKHA MITTAL)
JUDGE

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