

217 **IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

FAO No. 511 of 2015 (O&M)

Date of Decision: 31.10.2018

Vivek Bhardwaj

.....Appellant

Versus

Surinder Kumar and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. G.C. Shahpuri, Advocate,
 for the appellant.

 Mr. Vishal Aggarwal, Advocate,
 for respondent No. 3.

AVNEESH JHINGAN, J (Oral) :

The claimant has filed the present appeal against the award dated 12.08.2014, passed by the Motor Accident Claims Tribunal, Yamuna Nagar at Jagadhri (for short 'the Tribunal').

2. An accident occurred on 24.10.2012, a car bearing Registration No. HR-99LQ-4992 (hereinafter referred to as 'the offending vehicle') struck against the scooter of the claimant bearing Registration No. HR-02K-9923. FIR No. 557 of 26.10.2012 was registered. A claim petition was filed under Section 166 of Motor Vehicles Act, 1988 (for short 'the Act').

3. The present appeal has been filed for enhancement of compensation.

4. It was pleaded that the claimant was working as a Lab Technician in Gaba Hospital, Yamuna Nagar and was earning

Rs. 15,500/- per month. Salary certificate was produced as Exhibit P-23.

In order to prove the same, PW 5 Rajvinder Singh, Accounts Officer, appeared before the Tribunal. The appellant had suffered 100 % permanent disability and the same was proved by producing disability certificate Ex. P-29 by examining (PW-10) Doctor Anju Mangla. The Tribunal awarded a sum of Rs. 25,25,000/- along with interest @ 8% per annum.

5. Learned counsel for the appellant contended that the appellant was earning Rs. 15,500/- but on mere surmises and conjectures the Tribunal awarded compensation for disability by assessing his salary as Rs. 10,000/- per month. He further argued that the amount of medical bills produced before the Tribunal was Rs. 4,01,140/- whereas the Tribunal has awarded a sum of Rs. 2,60,000/- only. His grievance is that the amounts awarded under various conventional heads are on the lower side.

6. Learned counsel for the insurer argued that the Tribunal after considering the facts and evidences in entirety came to the conclusion that the salary certificate is not reliable.

7. In the present case certain factual aspects needs to be considered not only with regard to the earning but also with regard to the medical expenses. The injury suffered by the appellant is such that he would be needing future medical treatment also. In such circumstances it would be appropriate to remand the matter back to the Tribunal to decide the issue of quantum afresh after providing opportunity to both the parties to adduce evidence in support of their claim.

8. Appellant would also be at liberty to produce evidence with regard to future Medical expenses incurred. Since it is a hard case, where the accident has resulted in 100% disability, it would be desirable that the Tribunal dispose of the same expeditiously.

9. The parties are directed to appear before the Tribunal on 28.11.2018.

10. The instant appeal is disposed of, accordingly.

October 31, 2018

Ajay Goswami

[AVNEESH JHINGAN]

JUDGE

1. Whether speaking/ reasoned : Yes/ No

2. Whether reportable : Yes/ No