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

**FAO No.8774 of 2014 (O&M)
Date of Decision: 21.11.2018**

Kalawati

Appellant

Versus

Anil Kumar and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. J.P. Sharma, Advocate
for the appellant.

Mr. Rajneesh Malhotra, Advocate
for the Insurance Company.

AVNEESH JHINGAN, J (Oral):

The present appeal has been filed against award dated 03.09.2014 passed by Motor Accident Claims Tribunal, Narnaul [for brevity 'the Tribunal'], seeking enhancement of compensation.

The appellant suffered injuries in a motor vehicular accident which took place on 13.01.2014. The driver of three wheeler bearing registration No. HR-66-4979 [hereinafter referred to as 'offending vehicle']; owner of offending vehicle and insurer of the offending vehicle i.e. Reliance General Insurance Co. Ltd. have been arrayed as respondents No.1 to 3 respectively in the appeal.

The brief facts necessary for adjudication of the present appeal are that on 13.01.2014, Kalawati alongwith her

daughter-in-law was returning to her village in the offending vehicle. The vehicle was being driven in rash and negligent manner. When they reached near Bus Stand of village Mandhlana, a car came from opposite side and in order to give side to that car, the driver of the offending vehicle lost his control and struck against a tree. As a result of the impact, appellant suffered injuries. FIR No.7, dated 16.01.2014 was registered at Police Station Sadar, Narnaul.

A claim petition under Section 166 of the Motor Vehicles Act, 1988 [for brevity 'the Act'] was filed. The Tribunal after considering the facts and appreciating the evidence adduced, held that accident occurred due to rash and negligent driving of the offending vehicle. The owner, driver and insurer of offending vehicle were held jointly and severally liable to pay the compensation. The Tribunal awarded a sum of ₹1,20,000/- alongwith interest @ 7.5% per annum.

The appellant filed an application under Order XLI Rule 27 of Code of Civil Procedure, 1908 alongwith the appeal. The parties agreed that the appellant should be examined by the Doctor and report may be sought with regard to her disability. The matter was remitted back to the Tribunal. The Tribunal after examining Dr. Ashok Kumar, Deputy Civil Surgeon, Narnaul and relying upon the disability certificate [AW1/A], came to the conclusion that there is 12% permanent disability qua whole body and awarded compensation of ₹79,200/-.

There is no dispute between the parties regarding

compensation calculated by the Tribunal. The said amount is awarded to the appellant over and above the amount awarded by the Tribunal.

The award dated 03.09.2014 is modified to the extent that the appellant shall be entitled to a sum of ₹79,200/- over and above the amount already awarded by the Tribunal.

The appellant shall be entitled to interest on enhanced amount @ 7.5% per annum from the date of filing of claim petition till realization of the amount.

The appeal is allowed.

[AVNEESH JHINGAN]
JUDGE

November 21, 2018

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| 1. Whether speaking/ reasoned | : | Yes/ No |
| 2. Whether reportable | : | Yes/ No |