

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

220

FAO-9689-2014 (O&M)

Date of Decision:22.03.2018

Mohit Soni @ Mohit Kumar @ Mohit

.....Appellant

Versus

Dr. Paramjit Singh and another

.....Respondents

CORAM: HON'BLE MR.JUSTICE HARI PAL VERMA.

**Present: Mr. Binderjit Singh, Advocate,
for the appellant.**

**Mr. Amit Kundra, Advocate,
for respondent No.2-Insurance Company.**

HARI PAL VERMA, J.(Oral)

Not satisfied with the award dated 01.07.2014 passed by learned Motor Accident Claims Tribunal, Fast Track Court, Bathinda (for short “the Tribunal”), whereby in a claim petition filed under Section 166 of the Motor Vehicles Act, 1988, the Tribunal has awarded a total compensation of ₹1,10,000/- on account of injuries so suffered, the appellant-claimant has filed the present appeal for enhancement of compensation.

Learned counsel for the appellant has argued that in the accident, which took place on 09.05.2012, the claimant had suffered injuries on his right leg and as a result thereof, both the bones of his lower right leg were fractured. The claimant remained as outdoor patient in G.S. Memorial

Prem Hospital, Moga. Appellant-injured had produced the Disability

Certificate, Ex.C-26 but that being a photocopy of the Disability Certificate, was not considered by the Tribunal as the concerned doctor was not examined to prove this Certificate. Learned counsel has further argued that now the appellant has moved an application bearing CM-11393-CII-2015 under Order 41 Rule 27 read with Section 151 CPC, seeking permission to lead additional evidence so as to prove the Disability Certificate (Annexure A-1) and the medical expenses so incurred on the injured after the passing of the award dated 01.07.2014.

Learned counsel for respondent No.2-Insurance Company has argued that since the appellant-claimant had not placed on record the original Disability Certificate and the concerned doctor had not been examined to prove this document, the Tribunal has rightly rejected the Disability Certificate.

I have heard the learned counsel for the parties.

In paragraph 13 of the award, the Tribunal has recorded that the claimant has asserted that after the accident, he has become 10% disabled but as the original Disability Certificate was not produced and a mere photocopy was produced, the Tribunal has not accepted the same. However, now original Disability Certificate has been produced on record accompanying by CM-11393-CII-2015.

As no finding has been recorded regarding 10% permanent disability, the case is remanded back to the Tribunal to pass a fresh award viz-a-viz 10% permanent disability so claimed by the claimant and the expenses incurred on the treatment thereof. It is made clear that in order to avail the benefit of Disability Certificate dated 15.04.2014 issued by the Civil Hospital, Bathinda, the claimant shall require to prove the said

Disability Certificate and the expenses so incurred strictly in accordance with law. Since the Tribunal is required to return its finding being raised on the basis of the original Disability Certificate, Registry is directed to return the Disability Certificate dated 15.04.2014 (Annexure A-1) and the medical bills appended as Annexures A-2 to A-11 to the appellant-claimant. The attested photocopies of these documents shall be retained in the record.

The present appeal stands disposed of accordingly.

The parties are directed to appear before the Tribunal on 03.05.2018.

March 22, 2018
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(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No