

228

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

**FAO No.7574 of 2016 (O&M)
Date of Decision: 13.12.2018**

Joginder Kumar

Appellant

Versus

Virender Singh and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Arun Singal, Advocate
for the appellant.

Mr. Rajesh Verma, Advocate
for the Insurance Company.

AVNEESH JHINGAN, J (Oral):

The award dated 05.07.2016 passed by Motor Accident Claims Tribunal, Panipat [for brevity 'the Tribunal'] has been assailed by the claimant for enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 [for brevity 'the Act'].

The brief facts necessary for adjudication of the present appeal are that on 12.07.2012, a motor vehicular accident took place. The vehicles involved in the accident were motor cycle bearing registration No. HR-06E-1699 and a Bolero Jeep bearing registration No. DL-8CNA-1508 [hereinafter referred to as 'offending vehicle']. The accident was caused due to the rash and negligent driving of the offending vehicle. The appellant suffered injuries in the said accident. In the claim petition filed under Section 166 of the Act, the Tribunal awarded a sum of ₹92,015/- alongwith interest @ 7.5% per annum.

The present appeal has been filed for enhancement of compensation. During the pendency of the appeal, an application under Order XLI Rule 27 read with Section 151 of CPC has been filed for leading additional evidence. The additional evidence produced is disability certificate and medical bills.

Learned counsel for the appellant contends that because of the injuries sustained in the accident, the appellant has suffered 38% permanent disability and he had to undergo a surgery even after passing of the award.

Learned counsel for the insurer contends that these evidences have been produced for the first time and an opportunity may be provided to the insurer to verify and rebut the same.

The medical bills and disability certificate produced as additional evidence would be required to be proved by the appellant. An opportunity has to be provided to the insurer also to rebut the same. In the facts and circumstances of the case, the issue regarding quantum of compensation is remitted back to the Tribunal to be decided afresh in accordance with law, after affording an opportunity to the parties to produce fresh evidence, if so desired.

The parties are directed to appear before the Tribunal on 21.01.2019.

[AVNEESH JHINGAN]
JUDGE

December 13th, 2018
pankaj baweja

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