

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

**FAO No. 3271 of 2017 (O&M)**

**Date of Decision: 01.11.2018**

Ishwar Singh

.....Appellant

Versus

Idrish Khan and another

.....Respondents

**CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN**

Present:            Mr. B.K. Bagri, Advocate,  
for the appellant.

Ms. Vandana Malhotra, Advocate,  
for respondent No. 2.

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**AVNEESH JHINGAN, J (Oral) :**

The appellant has filed the present appeal against award dated 14.12.2016 passed by the Motor Accident Claims Tribunal, Rewari (for short 'the Tribunal').

2.                    The present appeal has been filed for enhancement for compensation.

3.                    The brief facts of the case are that on 21.06.2014, the appellant met with a motor vehicular accident. The offending vehicle in the said accident was Tata Vehicle bearing Registration No. HR-74-4186. Due to the accident, appellant suffered injuries. A claim petition under Section 166 of the Motor Vehicles Act, 1988, (for short 'the Act') was filed. The Tribunal after considering the facts and appreciating the evidence adduced, awarded a compensation of Rs. 2,40,250/- alongwith interest @ 7.5% per annum.

4. Learned counsel for the appellant contended that there is 30% permanent disability qua the left lower limb of the appellant. The appellant was working as volunteer in Home Guard and drawing a salary of Rs. 250/- per day. He further contended that as a result of permanent disability, appellant is no longer employed as Home Guard. He seeks permission to adduce evidence to the effect that 30% permanent disability has far reaching effect viz-a-viz the functional disability.

5. Learned counsel for the insurer contended that in case such an opportunity is provided to the appellant, the insurance company should also be given an opportunity to rebut the said evidence or adduce evidence in support of their case.

6. As the factual aspects needs to be gone into for determining the functional disability of the appellant and for said purpose, further evidence would be required to be adduced, accordingly the matter is remitted back to the Tribunal to decide the issue of quantum of compensation afresh after affording opportunity to the parties to adduce evidence in support of their case.

7. The parties are directed to appear before the Tribunal on 04.12.2018.

8. The appeal is disposed of .

**November 1<sup>st</sup>, 2018**

*Ajay Goswami*

**[AVNEESH JHINGAN]  
JUDGE**

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