

In the High Court for the States of Punjab and Haryana
at Chandigarh

FAO No.2677 of 2018 (O&M)
Date of Decision:- 14.05.2018

The United India Insurance Co. Ltd.

.....Appellant

Versus

Azad Khan and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present : Mr. Vinod Chaudhri, Advocate, for the appellant.

GURVINDER SINGH GILL, J.

CM-9810-CII-2018

There is an application for delay of 15 days in filing the appeal.

In view of the reasons mentioned in the application, delay of 15 days in filing the appeal is condoned.

Civil miscellaneous application stands allowed accordingly.

FAO-2677-2018 (O&M)

The insurer has filed this appeal, challenging award dated 30.11.2017 on the ground that no liability of the insurer could have been fastened as the vehicle in question was being driven in violation of the conditions of the insurance policy of the Motor Vehicles Act, inasmuch as the vehicle in question was not having a certificate of fitness as on the date of the accident. The learned counsel for the appellant in this context has referred to a fitness certificate annexed with the application and a perusal of which shows that the said fitness certificate was issued on 18.1.2017 whereas the accident

in question had taken place on 27.7.2016.

I have considered the aforesaid submissions.

The aforesaid document was never produced on record during the proceedings of the claim petition. The fitness certificate, registration certificate, driving licence etc. are the basic documents which are required to be produced on record, during the proceedings of the claim petition. Though, an application has been filed in this Court on behalf of the Insurance Company under Order 41 Rule 27 CPC seeking permission to place on record the aforesaid document by way of additional evidence but no convincing reason is forthcoming as to why the said document had not been brought on record before the Tribunal despite exercise of due diligence. In fact, no application at any stage, was admittedly filed before the Tribunal for producing the aforesaid document on record. In these circumstances, I do not find any ground to permit the appellant to lead additional evidence, at this stage. As such, the aforesaid contention submitted on behalf of the appellant cannot be accepted.

It has next been submitted on behalf of learned counsel for the appellant that the learned Tribunal has erred in awarding excessive compensation to the tune of ₹4,01,657/- for the injuries sustained by the claimant though injury on the left ankle could improve with some physiotherapeutic treatment over a period of time. The learned counsel has further submitted that in any case, an amount of ₹25,000/- which has been awarded under the head 'agony to parents' could not be awarded as the parents in any case are not the claimants and that it is only the claimant himself who could be compensated on account of his pain and suffering, for which he has been sufficiently compensated inasmuch as an amount of ₹1,00,000/- has been awarded under the head of 'pain and suffering'.

I have considered the aforesaid submission.

I do find that amount of ₹25,000/- awarded under the head 'agony to parents' is rather unjustified. At the same time, I also find that no amount has been awarded on account of 'loss of marital prospects' inasmuch as the permanent disability sustained by claimant to the tune of 25% would certainly affect his marital prospects. As such, the said amount of ₹25,000/-, as awarded by the learned Tribunal under the head of 'agony to parents' be treated as compensation under the head of 'loss of marital prospects'.

I do not find any other infirmity in the impugned award so as to justify the interference in the same.

Finding no merit in the appeal, the same is hereby dismissed with the modification indicated above.

May 14, 2018
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(GURVINDER SINGH GILL)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No