

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

**FAO No.4780 of 2002 (O&M)
Date of Decision : 11.01.2019**

Kulwant Singh

....Appellant

VERSUS

Nirmal Singh & others

...Respondents

FAO No.5663 of 2002 (O&M)

Nirmal Singh

....Appellant

VERSUS

United India Insurance Co. & ors.

...Respondents

FAO No.5664 of 2002 (O&M)

Labh Singh

....Appellant

VERSUS

United India Insurance Co. & ors.

...Respondents

CORAM : HON'BLE MR. JUSTICE B.S. WALIA

Present: Mr. Gaurav Chopra, Advocate for the appellant in FAO No.4780 of 2002 and for respondent No.2 in FAO Nos.5663 & 5664 of 2002.

Mr. Kamaldip Singh Sidhu, Advocate for respondent Nos.1 and 2 in FAO Nos.4780 of 2002.

None for the appellant(s) in FAO Nos.5663 and 5664 of 2002.

Mr. Gopal Mittal, Advocate for the respondent-United India Insurance Company.

B.S. WALIA, JUDGE (ORAL)

1. This order shall decide FAO Nos.4780, 5663 and 5664 of 2002 as all the appeals arise out of the same award. For the sake of brevity, facts are being taken from FAO No.4780 of 2002.

2. FAO No.4780 of 2002 has been filed by the appellant seeking enhancement of compensation of ₹1,95,000/- awarded on account of injuries sustained in a motor vehicular accident on 29.9.1997 whereas FAO Nos.5663 and 5664 of 2002 have been filed by the driver and owner of the offending vehicle respectively for setting aside the award of the Tribunal.

3. Learned counsel for the appellant-claimant contends that as against the claim for compensation of ₹8,00,000/-, the appellant-claimant was awarded only ₹2700/- on account of reimbursement of transportation charges, ₹43,010/- on account of hospital bills, ₹22,152/- on account of medicine bill, ₹36,551/- on account of surgical expenditure etc., ₹22,000/- on account of attendant charges, besides miscellaneous expenditure of ₹68,586/-, total ₹1,95,000/- whereas, as against the claim for ₹6,00,000/- as compensation on account of permanent disability, no amount was awarded.

4. Learned counsel for the appellant-claimant states that although disability certificate showing 15% permanent disability was produced on record reflecting loss of physical function to right lower extremity yet the same could not be proved (Ex.P-39). Learned counsel prays for remand of the case and for grant of one opportunity to lead evidence to prove the disability certificate.

5. Further, while awarding compensation, the Tribunal directed the Insurance Company to pay compensation to the appellant-claimant and to

recover the same from the owner and driver on the ground that licence of the driver of the offending vehicle had not been renewed after 1974 whereas the accident was of the year 1997. In the circumstances, FAO Nos.5663 and 5664 of 2002 have been filed by driver Nirmal Singh and owner Labh Singh respectively challenging the grant of recovery rights on the ground that the driving licence had in fact been renewed and was valid at the time of accident. Learned counsel for respondents i.e. owner and driver contended that the finding of the learned Motor Accidents Claims Tribunal with regard to driving licence of the driver of the offending vehicle not being valid as on date of accident is legally unsustainable in view of the fact that copy of the driving licence available with respondent Nos.1 and 2 in FAO No. 4780 of 2002 i.e. appellants in FAO Nos.5663 and 5664 of 2002 proved that as on date of accident the driving licence of the driver of the offending vehicle was valid and in the circumstances, respondent Nos.1 and 2 in FAO No.4780 of 2002 i.e. appellants in FAO Nos.5663 and 5664 of 2002 were entitled to prove before the Tribunal that the driving licence of the driver of the offending vehicle was valid as on date of accident.

6. Per contra, learned counsel for respondent-Insurance Company states that he does not oppose the remand of the case and grant of opportunity to the appellant-claimant to prove the disability certificate as also opportunity to respondent Nos.1 and 2 i.e. owner and driver of the offending vehicle i.e. appellants in FAO Nos.5663 and 5664 of 2002 to lead evidence to prove the validity of the driving licence while granting liberty to the Insurance Company to controvert the claim based on the disability certificate as also with regard to the validity of the driving licence.

7. Having considered the submissions of learned counsel for the parties as also to ensure a just adjudication of the case, it is deemed appropriate to remand FAO No.4780 of 2002 as well as FAO Nos.5663 and 5664 of 2002 to the learned MACT, Moga in order to enable the appellant-claimant to lead evidence on the issue of permanent disability and for the driver and owner of the offending vehicle to lead evidence with regard to validity of the driving licence.

8. Needless to mention the respondent-Insurance Company would also be granted opportunity to controvert/rebut the evidence led by the claimants as well as owner/driver. Since the award is of the year 1997, therefore, the learned MACT, Moga shall endeavour to conclude the proceedings as expeditiously as possible preferably within six months from the date parties put in appearance before the Tribunal. Parties through counsel are directed to put in appearance before the learned Tribunal on 15.03.2019.

9. Accordingly, appeals are allowed and Award dated 25.07.2002 is set aside to the extent as noted above. Parties through counsel are directed to produce the record as available with them on the date fixed before the learned Motor Accidents Claims Tribunal, Moga in order to enable the claim petition to be decided expeditiously.

January 11, 2019
ps

(B.S. WALIA)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No