

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

**FAO No.5598 of 2002
Date of decision: 17.01.2019**

Ajaib Singh

.... Appellant

Versus

Gurinder Singh & anr.

....Respondents

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

Present: Ms. Amandeep Kaur, Advocate for the appellant.

Mr. Pardeep Goyal, Advocate for the respondent-Insurance
Company.

B.S. WALIA, J (ORAL)

1. Appeal has been filed seeking enhancement of compensation awarded by the learned Motor Accidents Claims Tribunal, Chandigarh on the ground that the appellant was awarded total compensation of ₹20,000/- on account of injuries suffered in a motor vehicular accident on 05.04.1999 in the absence of disability certificate and that the disability certificate dated 28.11.2002 could not be placed on record before the Tribunal as the same though applied for during the pendency of the claim petition was issued only after the passing of the award dated 27.03.2002. Learned counsel states that the same has been placed on record as Annexure P-1 and certifies the appellant to be suffering from permanent disability of the upper limb and in the circumstances, compensation payable is liable to be enhanced by modifying the award.

2. Being a burnt case, complete record is not available. However, learned counsel for the appellant has furnished in Court an undated application under Order 41 Rule 27 CPC read with Section 151 CPC for permission to lead additional evidence along with copy of disability certificate Annexure P-1. Copy of the application furnished in Court on visual inspection appears to be a few years old. Taking of the same on record or for that matter allowing the same is not opposed to by learned counsel for the respondents by stating that although he does not oppose allowing of the application for additional evidence but prays that the plea for enhancement be considered only after the disability certificate has been duly proved in accordance with law and in the circumstances, the matter be remanded to the learned Motor Accident Claims Tribunal, Chandigarh to enable the appellant to prove the disability certificate in accordance with law as well as grant of opportunity to the respondents to lead evidence qua the disability certificate Annexure P-1, cross-examine the appellant's witness qua the disability certificate.

7. In the light of stand of counsel for the respondents, the application for additional evidence is allowed. Annexure P-1 i.e. disability certificate dated 28.11.2002 is taken on record and the appeal is disposed of by remanding the matter to the learned MACT, Chandigarh to consider and decide the question with regard to permanent disability of the appellant as also the plea for enhancement of compensation to the appellant on the basis of permanent disability if any established by the appellant before the learned MACT, Chandigarh in accordance with law.

8. Since the matter pertains to the year 1999, the appellant as well as respondents would be afforded two effective opportunities each to

establish/controvert the claim based on permanent disability. Parties through counsel are directed to put in appearance before the learned MACT, Chandigarh on 01.03.2019 for proceedings in accordance with law. Learned MACT, Chandigarh shall endeavour to conclude the proceedings within a period of three months from the date the parties put in appearance before it.

January 17, 2019
ps

(B.S. WALIA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No