

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 1124 of 2009 (O&M)

Date of Decision: 28.02.2019

Shish Pal

.....Appellant

Versus

Vishnu and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Ashwani Gaur, Advocate
for the appellant.

Mr. Neeraj Khanna, Advocate
for Insurance Company.

AVNEESH JHINGAN, J.(oral)

This is an appeal against the award dated 31.7.2008 passed by the Motor Accident Claims Tribunal, Sonapat (hereinafter referred to as 'the Tribunal') in MACT Case No. 21 of 2007.

The brief facts are that a motor vehicular accident took place on 31.8.2006. The accident was caused due to rash and negligent driving of truck bearing registration No. HR-55-7222. Shish Pal sustained injuries in the said accident. FIR No. 150 dated 1.9.2006 was registered at Police Station Murthal. A claim petition was filed under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act').

The Tribunal awarded a sum of ₹ 2,32,000/- alongwith interest at the rate of 7.5% per annum. The owner, driver and insurer were held jointly and severally liable to pay the compensation.

While awarding compensation, the Tribunal considered the fact that the claimant had suffered temporary disability. During the pendency of

the appeal, a certificate dated 25.4.2016 has been placed on record whereby it has been certified that there is 25% permanent disability qua whole body.

Learned counsel for the appellant states that the appellant was working as a Mason and as a result of permanent disability, he is not able to continue with his occupation.

Learned counsel for the insurer contends that there is nothing on record that functional ability of the deceased has been affected by the said permanent disability. The disability certificate has been produced for first time in the appeal and an opportunity be provided to verify and to rebut the same.

As factual aspect with regard to the effect of permanent disability vis-a-vis functional ability needs to be decided for which adducing of evidence would be necessary. Without expressing any opinion on the merits of the case, the issue with regard to quantum of compensation is remitted back to the Tribunal to decide afresh after providing opportunity to both the parties to adduce evidence in support of their claim.

Parties are directed to appear before the Tribunal on 9.4.2019.

Copy of the disability certificate produced before this Court be sent to the Tribunal.

Disposed of accordingly.

(AVNEESH JHINGAN)
JUDGE

28.02.2019
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Whether speaking/reasoned	Yes
Whether Reportable:	No