

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

FAO-5039-2009 (O&M)
Date of decision: 02.12.2019

Charanjit Singh

...Appellant

Versus

Karam Singh and others

...Respondents

CORAM: HON'BLE MR.JUSTICE H.S. MADAAN

Present: Mr. Naveen Sharma, Advocate for the appellant.

Mr. Vinod Chaudhri, Advocate for respondent No.5.

H.S. MADAAN, J. (Oral)

Petitioner/claimant Charanjit Singh, who has suffered injuries in a motor vehicular accident, had brought a claim petition against driver, owner and insurance company of tractor Swaraj bearing registration No.PB-11C-5238.

On being put to notice, the respondents had appeared and contested the claim petition.

Issues on merits were framed. The parties were given adequate opportunities to lead evidence. On conclusion of trial, Motor Accidents Claims Tribunal, Rupnagar, vide award dated 01.05.2009, accepted the claim petition and awarded compensation of Rs.17000/- from the respondents. Respondent-Insurance Company was directed to deposit the compensation and then recover the same from respondent

Nos.1 to 4 by initiating execution proceedings.

Feeling aggrieved, the petitioner/claimant has approached this Court by way of filing an appeal, notice of which was given to the respondents. Respondent No.5-Insurance Company has put in appearance through counsel to offer a contest.

I have heard learned counsel for the parties besides going through record.

During the course of arguments, it transpires that petitioner/claimant had got himself examined from the Board of Doctors and a disability certificate Ex.P2 was issued to him, showing his disability to the extent of 30% in vision of the claimant. However, that disability certificate was not taken into consideration by the Tribunal for the reason that the doctor who had examined the claimant and issued the disability certificate was not produced as a witness before the Tribunal by the claimant. Though, the Tribunal cannot be faulted for not relying upon the disability certificate for the said reason but considering the fact that Section 166 of the Motor Vehicles Act is a piece of welfare legislation, which was enacted to provide compensation to the victims of the road side accidents and a sympathetic view in the matter is required to be taken, since, in the present case, a young man had suffered serious injuries.

Under the circumstances, I find that it should be proper and appropriate if the claimant is given an opportunity to examine the doctor who was member of the Medical Board, which had examined the

claimant and issued the disability certificate to prove such certificate.

Accordingly, the appeal is disposed of inasmuch as the impugned award is set aside and the case is remanded to Motor Accidents Claims Tribunal, Rupnagar with a direction to allow the claimant to produce evidence by way of examining the doctor to prove the disability certificate. The respondents would also be given appropriate opportunity to cross examine the doctor and then, lead evidence in rebuttal, if they so desire. Thereafter, the Tribunal is to decide the claim petition afresh, after hearing learned counsel for the parties. Since the case is quite old, the Tribunal is directed to conclude the proceedings and decide the claim petition within six months from the date of receipt of copy of this order there. The parties through counsel are directed to appear before the Tribunal on 17.01.2020. The Registry is directed to send the record to the Tribunal along with a copy of this order, at the earliest.

02.12.2019

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(H.S. MADAAN)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No