

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

F.A.O. No. 5552 of 2019(O&M)
Date of Decision: 11.09.2019

New India Assurance Company Limited

.....Appellant.

Versus

Umed Singh and others

..... Respondents

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr.Suman Jain, Advocate
for the appellant-Insurance Company.

LISA GILL, J (Oral).

This appeal has been filed by the Insurance Company challenging the quantum of compensation awarded to the claimant-respondent by the learned Motor Accident Claims Tribunal, Sonipat (for short 'Tribunal'), vide award dated 15.02.2019.

The claimant-respondent no.1, in this case, filed a petition under section 166 of the Motor Vehicles Act, claiming compensation on account of injuries suffered by him, which led to 90% permanent disability on account of amputation of his arm from the right shoulder. Disability certificate, Ex.P-51 was placed on record. Learned tribunal awarded a sum of ₹22,90,000/-, which is detailed as under:-

1.	Pain and suffering	₹1,00,000/-
2.	Loss of income due to permanent disability	₹16,76,700/-
3.	Treatment expenses	₹2,14,440/-
4.	Special diet and	₹50,000/-

	attendant charges	
5.	Loss of income during treatment	₹49,680/-
5.	Loss of amenities	₹2,00,000/-
	Total	₹22,90,820 (rounded to ₹22,90,900/-)/-

Sole argument raised by the learned counsel for the appellant-Insurance Company is that the learned tribunal has erred in assessing functional disability of the claimant to be 90% and calculated the income accordingly. As the permanent disability of 90% was only qua the limb, disability qua the whole body should have been assessed at a lessor percentage. It is thus prayed that the present appeal be allowed and compensation awarded to the claimants be reduced.

I have heard learned counsel for the appellant-Insurance Company and have gone through file with his assistance.

After having heard learned counsel for the appellant-Insurance Company and going through the file, I do not find any ground whatsoever to interfere in the assessment of the permanent disability of the claimant to the extent of 90% at the instance of the appellant-Insurance Company. This is so for the reason that it is a settled position that while assessing loss of future income, the Court has to assess the functional disability of the claimant keeping in view the nature of the occupation and other attending circumstances. Claimant, in this case, was working as a helper on a truck as per the evidence on record. Needless to say in such a situation functional disability of the claimant cannot be held to be less than 90%. Therefore, there is no reason to interfere in the assessment arrived at by the learned tribunal at the instance of the appellant-Insurance Company.

No other argument has been raised.

Learned counsel for the appellant-Insurance Company is unable to point out any illegality or infirmity in the impugned award dated 15.02.2019, passed by the learned tribunal, Sonipat, which calls for interference by this Court, at the instance of the appellant-Insurance Company.

There is a delay of 95 days in filing of this appeal. Keeping in view the fact that the matter has been adjudicated on merits, question of delay in filing of this appeal is rendered academic. Application is accordingly disposed of.

Appeal is accordingly dismissed with no order as to costs.

11.09.2019
s.khan

[LISA GILL]
Judge

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