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

FAO No.1579 of 2015(O&M)

Date of decision: 26.9.2019

Satpal …..Appellant

VERSUS

Subhash and others .....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Vipul Sharma, Advocate Amicus Curiae for the appellant.
Dr. Swatantar Kapoor, Advocate for the insurance company.

REKHA MITTAL, J.(Oral)

The claimant is in appeal seeking enhancement of compensation on account of injuries sustained in a motor vehicular accident that took place on 15.04.2012.

The Motor Accidents Claims Tribunal, Sonepat (in short 'the Tribunal') awarded Rs.1,68,847/-, detailed hereunder:-

Medical bills	Rs.1,03,847/-
Hospitalization including attendant expenses etc.	Rs.15,000/-
Pain and sufferings	Rs.10,000/-
Transportation, diet etc.	Rs.10,000/-
Disability suffered	Rs.30,000/-

Counsel for the appellant would argue that the injured suffered disability to the extent of 30% and he may be allowed compensation qua disability at the rate of Rs.2000/- per percent. Another submission made by counsel is that no compensation has been allowed for loss of income during the period of treatment and recovery.

Counsel representing the insurance company has supported assessment made by the Tribunal with the submission that there is no justification for allowing additional compensation.

Perusal of the disability certificate Ex.P1 makes it evident that disability is temporary in nature and condition is likely to improve. There is nothing on record suggestive of the fact that the injured got his disability re-assessed to establish that disability continued till date. In the given circumstances, Rs.30,000/- for temporary disability allowed by the Tribunal cannot be said to be inadequate.

The claimant remained hospitalized from 15.04.2012 to 28.04.2012. There is no clear evidence on record with regard to income of the claimant. Taking a clue from notification issued by the State of Haryana fixing minimum wage coupled with period of treatment as an indoor patient and temporary disability to the extent of 30% suffered by the victim, interest of justice would be served if the claimant is allowed Rs.8000/- for loss of income during the period of treatment and recovery. The additional amount shall carry interest at the rate of 7.5% per annum from the date of petition till realization.

Perusal of the award would reveal that insurance company has been exonerated of liability to pay compensation as licence of driver of the vehicle was found to be fake despite his having two licences. The insurance company cannot escape liability to pay compensation to the injured being a third party and can only press for right of recovery against the insured after payment of compensation to the claimant. In this context, reference can be made to judgment of Hon'ble the Supreme Court **National Insurance Co. Ltd. Vs. Swaran Singh and others, 2004(2) RCR (Civil) 114**. Accordingly, findings of the Tribunal on issue No.4 are modified to the effect that insurance company shall be liable to pay compensation to the claimant but would have right of recovery against the insured/registered owner of the vehicle after payment of compensation to the claimant.

The appeal is partly allowed in the aforesaid terms.

SEPTEMBER 26, 2019 **(REKHA MITTAL)**
'D. Gulati' **JUDGE**

Whether speaking/reasoned : yes/no
Whether reportable : yes/no