

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

FAO-402-2013(O&M)

Date of decision:-12.7.2019

Gurjant Singh

...Appellant

Versus

Manvir Singh Dhillon and another

...Respondents

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

Present: Mr.Rohit Kumar, Advocate  
for the appellant.

Mr.G.S. Sidhu, Advocate  
for respondent No.1.

Ms.Shamsher Kaur, Advocate  
for respondent No.2.

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**H.S. MADAAN, J.**

Sh.Gurjant Singh, aged about 50 years, resident of village Kot Shamir, Tehsil & District Bathinda alleging that he had suffered injuries in a road side accident on 7.2.2011 caused by respondent No.1 – Manvir Singh Dhillon while driving a jeep bearing registration No.PB-03P-3557 in a rash and negligent manner had brought a claim petition under Section 163-A of the Motor Vehicles Act, 1988 against respondents i.e. Manvir Singh Dhillon – owner-cum-driver and Oriental Insurance Company Ltd., Rampura Phul, District Bathinda – insurer of the jeep in question.

Notice of the claim petition was given to respondents, who put in appearance and contested the claim petition. Issues on merits were framed. The parties were given adequate opportunities to lead evidence.

After hearing arguments, the Tribunal while allowing the petition partly vide award dated 9.10.2012, awarded compensation of Rs.90,000/- to the claimant along with interest @ 7% per annum from the date of filing of the petition till realization. It was directed that respondent No.2 would make the payment to the claimant at the first instance. However, after that it would be at liberty to recover the same from the driver – insured of the offending vehicle. It was so directed for the reason that the driving licence possessed by respondent No.1 had authorized him to drive scooter and car only and not the offending vehicle, which was in the form of a jeep.

The claimant was dissatisfied with the amount of compensation awarded to him by the Tribunal and has approached this Court by way of filing appeal, notice of which was given to respondents, who put in appearance through counsel.

I have heard learned counsel for the appellant besides going through the record and I find that the impugned award is not sustainable and is liable to be set aside.

The Tribunal has dealt with the petition as if it had been filed under Section 166 of the Motor Vehicles Act. However, the contention of the claimant that he was drawing monthly salary of Rs.3,300/- was accepted and he was granted a sum of Rs.41,000/- on account of medical treatment, Rs.14,000/- on account of special diet, transportation, pains and

suffering, attendants, mental agony etc. and Rs.35,000/- on account of disability, total amounting to Rs.90,000/-. The procedure adopted by the Tribunal was wrong.

For deciding a petition under Section 163-A of the Motor Vehicles Act, the compensation is to be assessed as per structured formula in light of the second schedule and not in the manner as has been done by the Tribunal. The second schedule provides that for pain and suffering the compensation can be awarded up to Rs.5,000/- in case of grievous injuries and Rs.1,000/- for non-grievous injuries and as far as medical expenses are concerned, actual expenses incurred supported by bills/vouchers not exceeding as one time payment of Rs.15,000/-. It is further provided that in case of disability to the victim arising out of non fatal accident loss of income if any for actual period of disablement not exceeding 52 weeks shall be granted. Then it is mentioned that in case of permanent total disablement the amount payable shall be arrived at by multiplying the annual loss of income by the multiplier applicable to the age on the date of determining the compensation or in case of permanent partial disablement, such percentage of compensation which would have been payable in case of permanent total disablement as specified earlier. It has been clarified that injuries deemed to result in permanent total disablement/permanent partial disablement and percentage of loss of earning capacity shall be as per schedule I under Workmen's Compensation Act, 1923.

The second schedule has not been taken into consideration and structured formula not applied while arriving at the compensation

payable. Therefore, the award under appeal is not sustainable and is liable to be set aside.

Under the circumstances, the award is set aside and the case is remanded to the Motor Accidents Claims Tribunal, Bathinda with a direction to hear learned counsel for the parties and then decide the claim petition afresh strictly in accordance with the structured formula in light of the second schedule by passing a detailed award. Since the case is quite old, the whole exercise be completed within three months of receipt of copy of order by the Tribunal. The parties through their counsel are directed to appear before the Tribunal on 5.8.2019.

12.7.2019  
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**(H.S.MADAAN)**  
**JUDGE**

**Whether reasoned/speaking : Yes/No**

**Whether reportable : Yes/No**