

FAO No. 318 of 2015 (O&M)

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

FAO No. 318 of 2015 (O&M)

Date of Decision: December 13, 2019

Davinder

..... Appellants(s)

Versus

Sunil Kumar and others

..... Respondent(s)

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Sandeep Antehri, Advocate for
Mr. Ravinder Malik, Advocate
for the appellant.

None for respondents no.1 and 2, despite service.

Mr. Aman Mittal, Advocate for Mr. A.S. Sidhu, Advocate
for respondent no.3.

LISA GILL, J.

This appeal has been filed by the appellant being aggrieved with the dismissal of his petition, vide award dated 01.10.2014, passed by learned Motor Accident Claims Tribunal, Karnal (hereinafter referred to as 'the Tribunal), .

The appellant-claimant filed a petition under Section 163-A of the Motor Vehicles Act, 1988 seeking compensation to the tune of Rs.5 lakhs on account of injuries sustained by him in the motor vehicle accident, which took place on 29.04.2011, due to the use of the motorcycle bearing registration No. HR-75-2517.

Learned Tribunal on considering the facts and evidence on

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record concluded that the appellant-claimant was unable to prove that he suffered any permanent disability. Therefore, the claim petition was dismissed.

Learned counsel for the claimant has argued that the claimant-appellant suffered serious injuries. As per the testimony of PW2 Dr. Rakesh Jindal, the claimant was operated upon for a fracture of the mandible. The bills qua the expenses incurred by the appellant on the medical treatment are duly proved on record. Therefore, this appeal should be allowed and commensurate compensation be awarded.

Learned counsel for the insurance company refutes the above said arguments while submitting that the learned MACT has correctly adjudicated that the present claim is not maintainable in the absence of any permanent disability to the claimant and as such provisions under Section 163-A of the Motor Vehicles Act cannot be invoked. Dismissal of this appeal is prayed for.

I have heard learned counsel for the parties and have gone through the record.

Perusal of the testimony of PW2 Dr. Rakesh Jindal reveals that the claimant was admitted with injuries as mentioned above. PW2 has further stated that the claimant was operated upon and was discharged in a satisfactory condition on 08.05.2011. Indeed, PW2 has not stated that the claimant suffered any permanent disability on account of the injuries sustained by him in the motor vehicle accident, which took place on

29.04.2011. Learned counsel for the appellant is unable to deny that there is no evidence on record to indicate that the appellant suffered any permanent disability on account of the injuries suffered by him. A perusal of the claim petition also reveals that there is no mention of any permanent disability, which may have been suffered by the appellant.

Section 163-A of the Act reads as under:-

1[163A. Special provisions as to payment of compensation on structured formula basis.—

(1) Notwithstanding anything contained in this Act or in any other law for the time being in force or instrument having the force of law, the owner of the motor vehicle or the authorised insurer shall be liable to pay in the **case of death or permanent disablement** (amphasis added) due to accident arising out of the use of motor vehicle, compensation, as indicated in the Second Schedule, to the legal heirs or the victim, as the case may be. Explanation.—For the purposes of this sub-section, “permanent disability” shall have the same meaning and extent as in the Workmen’s Compensation Act, 1923 (8 of 1923).

(2) In any claim for compensation under sub-section (1), the claimant shall not be required to plead or establish that the death or permanent disablement in respect of which the claim has been made was due to any wrongful act or neglect or default of the owner of the vehicle or vehicles concerned or of any other person.

(3) The Central Government may, keeping in view the cost of living by notification in the Official Gazette, from time to time amend the Second Schedule.]

It is, thus, clear that the learned Tribunal has rightly dismissed the claim petition filed by the appellant. Therefore, there is no illegality, infirmity or perversity in the impugned award dated 01.10.2014, passed by the learned Motor Accidents Claims Tribunal, Karnal, which calls for any interference by this Court at the instance of the appellant.

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No other argument has been addressed.

Appeal is accordingly dismissed with no order as to costs.

December 13, 2019

Sunil

(LISA GILL)
JUDGE

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