

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

-.-

FAO 3315 of 2015 (O&M)

Date of decision: 11.03.2019

Ispak

.....*Appellant*

Versus

Ram Rikh and others

.....*Respondents*

Coram: Hon'ble Mrs. Justice Rekha Mittal

-.-

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

Mr. Vinod Gupta, Advocate
for the respondent insurance company

-.-

Rekha Mittal, J. (Oral)

Ispak, the injured in a road side accident has filed this appeal seeking enhancement of compensation.

Counsel for the appellant would state that as per disability assessed by the Medical Board on 17.10.2018, the injured has suffered disability to the extent of 100% and accordingly, compensation is liable to be assessed. A copy of the disability certificate was produced for perusal and appreciation of the Court.

Perusal of the award passed by the Tribunal would reveal that before the Tribunal an argument was made that the injured suffered 85% permanent disability and Tribunal awarded Rs.5,00,000.00 towards loss of enjoyment of future life like a normal person.

Counsel for the parties are ad idem that findings of the Tribunal on issue No. 2 in respect of compensation may be set aside and matter be remitted to the Tribunal for assessment of compensation afresh on the basis of materials already on record and additional evidence to be adduced by claimant qua disability suffered by him and evidence in rebuttal, if any, to be adduced by the insurance company.

In view of the above, the appeal stands disposed of. Findings of the Tribunal on issue No. 2 are set aside and the matter is remitted to the Tribunal for assessment of compensation afresh on the basis of materials already on record and evidence to be adduced by claimant to prove disability and disability certificate dated 17.10.2018. The Tribunal shall seek opinion of the doctor concerned with regard to functional disability and may seek presence of the injured before the Court in order to assess just and reasonable compensation, in compliance with the provisions of Section 166 of the Motor Vehicles Act, 1988 and *catena* of judgments on the issue. The insurance company shall be entitle to lead evidence in rebuttal to additional evidence, if any, adduced by the claimant. In the meantime, the insurance company shall not be entitle to recover the compensation already paid to the claimant. Parties through their counsel are directed to appear before the Tribunal on 04.04.2019. The Tribunal shall complete assessment of compensation within three months of the parties putting in appearance.

(Rekha Mittal)
Judge

11.03.2019
Mohan Bimbura

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