

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO-5359-2014

Date of decision: 29.08.2019

Hari Parkash

..... Appellant

Versus

Charan Singh and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

PRESENT: Mr. JS Yadav, Advocate for the appellant.

Mr. Vishal Goel, Advocate
for respondent No. Insurance Company.

Service of respondent No. 1 already dispensed with
vide order dated 12.05.2016.

RAMENDRA JAIN, J. (ORAL)

Through this appeal, the claimant has claimed enhancement of compensation by modifying the impugned Award dated 20.02.2014 of the Motor Accident Claims Tribunal, Rewari (for short-'the Tribunal').

Both the parties are *ad idem* that appellant is entitled to total maximum compensation of ₹2,93,600/- and thus, the learned Tribunal has illegally awarded compensation of ₹3,73,754/- to the appellant. Hence, in view of agreement in between the parties, the amount of compensation is reduced from ₹3,73,754/- to ₹2,93,600/-.

However, since, there was no evidence on record qua negligence of the appellant in causing the impugned accident, therefore, this Court is of the considered view that reduction of compensation to the

extent of 50% by the Tribunal, is illegal, inasmuch as, appellant was a pillion rider only. Accordingly findings of learned Tribunal to the above stated extent are set aside.

Consequently, appellant is held entitled to compensation to the tune of ₹2,93,600/-. It has been pointed out by learned counsel for respondent No. 2-Insurance Company that 50% of ₹3,73,754/- i.e. ₹1,86,877/- had already been paid by it to the appellant-claimant.

In view of the above, respondent No. 2-Insurance Company, through its counsel is directed to deposit ₹1,06,723/- (₹293600-₹186877=₹106723) before the learned Tribunal within one month from today, along with up-to-date interest @ 7.5% per annum from the date of filing of claim petition till realization, for onward disbursement to the appellant, in accordance with law against proper receipt and identification.

In case, aforesaid enhanced amount is not deposited within stipulated time, Insurance Company would be liable to pay the same with interest @15% from the date of institution of claim petition till realization.

Disposed of .

August 29, 2019
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(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No