

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 4371 of 2015(O&M)
DECIDED ON: APRIL 08, 2019

UNITED INDIA INSURANCE COMPANY LTD.

.....APPELLANT

VERSUS

BALWANT SINGH AND OTHERS

.....RESPONDENTS

2.

FAO No. 5398 of 2015 (O&M)

BALWANT SINGH

.....APPELLANT

VERSUS

MAGHAR SINGH AND ANOTHER

.....RESPONDENTS

3.

FAO No. 4380 of 2015 (O&M)

UNITED INDIA INSURANCE COMPANY LTD.

.....APPELLANT

VERSUS

AMARJIT KAUR AND ANOTHER

.....RESPONDENTS

AND

4.

FAO No. 6566 of 2015 (O&M)

AMARJIT KAUR

.....APPELLANT

VERSUS

MAGHAR SINGH AND ANOTHER

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Gopal Mittal, Advocate
for the appellant in FAO No. 4371, 4380 of 2015 and
for respondent No.2 in FAO No. 5398 and 6566 of 2015.

Mr. Arvind Kashyap, Advocate
for the appellant in FAO No. 5398 and 6566 of 2015 and
for respondent No.2 in FAO No. 4371 and 4380 of 2015.

AVNEESH JHINGAN J. (ORAL)

The awards dated 23.03.2015 passed by the Motor Accident Claims Tribunal, Fatehgarh Sahib (for brevity 'the Tribunal') has been assailed by filing four appeals. Two by the insurer (i.e. United India Insurance Co. Ltd.) of car bearing registration No. PB-48-B-0997 (hereinafter referred to as 'offending vehicle') i.e. FAO Nos. 4371 and 4380 of 2015 and two by the claimant(s) i.e. FAO Nos. 5398 and 6566 of 2015. As the same arise out of one accident, hence, these are being disposed of by a common order.

The grievance raised in all the appeals is with regard to quantum of compensation awarded.

The factum with regard to the accident is not disputed by the parties.

There is no challenge to the fact that the accident was caused due to rash and negligent driving of the offending vehicle and with regard to liability of the insurer to pay compensation.

FAO Nos. 4371 and 5398 of 2015

In a motor vehicular accident that took place on 16.12.2013, claimant-

Balwant Singh suffered injuries including fracture of leg. The Tribunal awarded a sum of ₹12,74,500/- alongwith interest @6% per annum.

The Tribunal relied upon a certificate issued by the employer of the claimant terminating his service and thereafter, assessed permanent disability to the extent of 10% and applied the multiplier method.

Learned counsel for the insurer contends that the Tribunal erred in applying the multiplier method as there was no proof with regard to the permanent disability.

Learned counsel for the claimant argues that the claimant lost his job because of the injuries suffered in the said accident. His further grievance is that various amounts awarded for pecuniary and non-pecuniary damages are on lower side.

From the perusal of the record, it is evident that no certificate with regard to permanent disability was produced by the claimant. There is nothing on record to establish that the injuries suffered by the claimant in the accident affected his functional ability. A certificate Ex.C69 only states that he cannot work on his own, due to that his services are terminated. It would be worthwhile to note here that he was working in Dubai (UAE) as a Senior Mechanic. The said certificate though exhibited but was not proved by the deposition of employer or his authorised representative.

Without expressing any opinion on the merits of the case the matter is remitted back to the Tribunal to decide the issue with regard to the permanent disability afresh after providing opportunity to the claimant and insurer to adduce evidence in support of their respective claims.

Disposed of accordingly.

FAO Nos. 4380 and 6566 of 2015

In a motor vehicular accident that took place on 16.12.2013, claimant- Amarjeet Kaur suffered injuries. The Tribunal awarded a sum of ₹3,08,244/- alongwith interest @6% per annum.

In the present case also without there being any disability certificate the compensation has been calculated by applying the multiplier method.

For the reasons mentioned above, this matter is also remitted back to the Tribunal to decide the issue with regard to quantum of compensation afresh in the afore-said terms.

It is clarified that the remand would not affect the amount already disbursed to the claimant(s).

Claimant(s) (Balwant Singh and Amarjeet Kaur) and insurer are directed to appear before the Tribunal on 30.05.2019.

Disposed of accordingly.

(AVNEESH JHINGAN)
JUDGE

APRIL 08, 2019
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Whether speaking/reasoned:
Whether reportable :

Yes/No
Yes/No