

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 6167 of 2014
Date of decision: 24.1.2019

Gagan Deep

.. Appellant

v.

Royal Sundram Alliance Insurance Company Limited and another

.. Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Ms. Amandeep Kaur, Advocate for the appellant.

Mr. D. K. Prajapati, Advocate for

Mr. R. S. Madan, Advocate for respondent No. 1.

...

AVNEESH JHINGAN, J. (Oral)

The award dated 2.1.2014 passed by the Motor Accident Claims Tribunal, S.A.S Nagar (Mohali) (for short, 'the Tribunal') has been assailed by the claimant seeking enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act').

The brief facts necessary for adjudication of the present appeal are, a motor vehicular accident took place on 4.5.2011. The offending vehicle in the said accident was an Alto car bearing registration No. UP-22-D-7578 (hereinafter referred to as 'the offending vehicle'). In the said accident, the appellant sustained injuries and was taken to General Medical College and Hospital, Sector 32, Chandigarh. FIR No. 91 dated 5.5.2011 was registered at Police Station Dera Bassi.

In the claim petition, the Tribunal after considering the facts and appreciating the evidence adduced held that the accident was caused due to the rash and negligent driving of the offending vehicle. The owner-cum-driver and the insurer of the offending vehicle were held jointly and severally liable to pay the compensation. The Tribunal awarded a sum of ₹2,20,706/- along with interest @ 6% per annum.

The present appeal has been filed for enhancement of compensation. During the pendency of appeal, CM No. 14087-CII was filed for placing on record additional evidence i.e. Disability Certificate dated 7.4.2016 (Annexure A1) and medical bills.

Learned counsel for the appellant contends that disability certificate has been issued after passing of the award and the injuries sustained by the appellant have resulted into 50% disability, which is not likely to improve. Hence, the compensation should be awarded by considering the bills for follow up treatment and disability certificate.

Learned counsel for the insurer contends that as the documents are being produced for the first time in the appeal, the same need to be verified and rebutted, if needed.

As factual aspects require consideration for which evidence would be required to be produced by the parties, the matter with regard to quantum of compensation is remitted back to the Tribunal to decide it afresh in accordance with law after providing opportunities to the parties to adduce evidence in support of their claims. The documents annexed with the applications be sent to the Tribunal. It is, however, clarified that the insurer would be at liberty to raise its objections against the entertainment of the said documents. The remand proceedings shall not affect quantum of

compensation already awarded.

The parties are directed to appear before the Tribunal on
27.2.2019.

The appeal stands disposed of.

(AVNEESH JHINGAN)
JUDGE

24.1.2019
mk

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