

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

FAO No. 3735 of 2016(O&M)

Date of decision: 19.9.2019

Malkinder Singh

.....Appellant

VERSUS

Sukhchain Singh and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Pankaj Katia, Advocate for the appellant.

Mr. A.S. Sidhu, Advocate for respondent No.3.

REKHA MITTAL, J.(Oral)

The claimant is in appeal seeking enhancement of compensation awarded by the Motor Accidents Claims Tribunal, Bathinda (in short 'the Tribunal') on account of injuries sustained in a motor vehicular accident that took place on 15.09.2013.

The Tribunal awarded Rs.1,97,000/-.

Counsel for the appellant would inform that the injured/claimant has filed CM Nos.12855-CII of 2016 and 13862-CII of 2017 by invoking Order 41 Rule 27 read with Section 151 of the Code of Civil Procedure, 1908 (in short 'CPC') for permission to place on record additional documents i.e. follow-up treatment record, bills, receipts, invoices (Annexure A-1 colly. & A-2 colly.). He would further submit that though disability certificate in respect of disability incurred by the claimant has been produced before the Tribunal but the same has been ignored for the reason that claimant did not examine a doctor to prove disability and

disability certificate. He would pray that findings of the Tribunal on issue No.2 may be set aside and the 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 the claimants to prove the disability certificate as well as the documents sought to be produced by way of additional evidence in view of the aforesaid applications.

Counsel representing the insurance company would apprise the Court that insurance company has been exonerated of liability to pay compensation in view of findings recorded under issue No.2 itself as the insured did not produce valid registration certificate, route permit, fitness certificate of the offending bus.

Taking into consideration that the Tribunal owes an obligation to assess just and reasonable compensation coupled with legislative intent behind the provisions of Section 166 of the Motor Vehicles Act, 1988, enacted with avowed object to make good loss the victim or family has suffered as the money can do, it would be in the fitness of things that findings of the Tribunal on issue No.2 with regard to assessment of compensation 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 additional evidence to be adduced by the claimant. The Tribunal shall also examine if the insurance company can be altogether exonerated of liability to pay compensation even if the insured has failed to produce on record the documents, reference whereof has been made in para 14 of the award.

In view of what has been discussed hereinbefore, the appeal is partly allowed. Findings of the Tribunal on issue No.2 are set aside. The

matter is remitted to the Tribunal for making assessment afresh on the basis of materials already on record and additional evidence to be adduced by the claimant and rebuttal evidence, if any, by the respondents. The Tribunal shall issue fresh notice to the driver and owner of the vehicle for deciding issue No.2 afresh. Parties through their counsel are directed to appear before the Tribunal on 04.10.2019.

SEPTEMBER 19, 2019		(REKHA MITTAL)
‘D. Gulati’		JUDGE
Whether speaking/reasoned	:	yes/no
Whether reportable	:	yes/no