

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 3978 of 2016

Date of Decision: 12.03.2019

New India Assurance Company Limited

.....Appellant

Versus

Subhash Chander and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Vinod Gupta, Advocate
for the appellant.

Mr. Sachin Ohri, Advocate
for respondent No.1-claimant.

AVNEESH JHINGAN, J.(oral)

The award dated 6.4.2016 passed by the Motor Accident Claims Tribunal, Gurdaspur (hereinafter referred to as 'the Tribunal') has been assailed by the insurer of Mini Truck (TATA-407) bearing registration No.PB-03-AJ-0776 (for short 'the offending vehicle').

The facts are that a motor vehicular accident took place on 30.3.2015. The accident was caused due to rash and negligent driving of the offending vehicle. Subhash Chander suffered injuries in the said accident. He remained hospitalised for almost two months.

In the claim petition filed under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act'), the Tribunal was swayed by the fact that the claimant appeared in the Court on wheel chair and on that basis it was assessed that he was 100% disabled and accordingly, the compensation of ₹ 15,43,100/- along with interest at the rate of 7.5% per annum was awarded. The owner, driver and insurer of the offending vehicle were held jointly and severally liable to pay

the compensation.

The grievance raised in the appeal is that the Tribunal erred in assessing the compensation in absence of any disability certificate.

Learned counsel for the claimant-respondent No.1 defends the award and contends that he was a labourer and lower part of his body was paralysed, hence, his disability was 100%.

There is nothing on record to prove that there was any permanent or temporary disability suffered by the claimant. In such circumstances, the Tribunal erred in assessing the compensation by considering the fact that the claimant appeared on a wheel chair before it.

Without expressing any opinion on the merits of the case, the matter with regard to quantum of compensation is remitted back to the Tribunal to be decided afresh in accordance with law after affording opportunities to the parties concerned to adduce evidence in support of their claim as the compensation is to be awarded by taking into consideration various factors including disability, if any sustained permanent or temporary.

Parties are directed to appear before the Tribunal on 25.4.2019.

The present appeal is disposed of accordingly.

(AVNEESH JHINGAN)
JUDGE

12.03.2019
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Whether speaking/reasoned	Yes/No
Whether Reportable:	Yes/No