

In the High Court of Punjab and Haryana at Chandigarh

FAO- 5729 of 2015(O&M)

Date of Decision: 8.3.2019

Harish Chander Grover

---Appellant

versus

Saddik and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Atul Yadav, Advocate
for Mr. S.K.Yadav, Advocate
for the appellant

Mr.Amrinder Singh Sidhu, Advocate,
for respondent No. 4

Rekha Mittal, J.

The present appeal directs challenge against award dated 26.2.2015 passed by the Motor Accidents Claims Tribunal, Faridabad (in short “the Tribunal”) whereby compensation has been assessed on account of injuries sustained by Harish Chander Grover, appellant herein.

Along with the appeal, an application under Order 41 Rule 27 read with Section 151 of the Code of Civil Procedure for adducing additional evidence i.e. disability certificate dated 15.2.2012 (Annexure A-1), has been filed.

Counsel for the appellant would urge that the appellant may be permitted to adduce evidence to prove disability certificate and thereafter assessment of compensation may be made afresh by the Tribunal concerned.

Counsel for the insurance company would urge that disability certificate pertains to period prior to filing of the claim application and as the claimant failed to produce and prove the disability certificate before the Tribunal without any tangible explanation, he is not entitled to adduce additional evidence.

The claimant has sought permission to lead additional evidence to prove the disability certificate issued by a Medical Board of doctors in government service. As per settled position in law, it is an obligation of the Tribunal to assess just and reasonable compensation and the Tribunal can take cognizance even on the basis of information supplied by the police, in compliance with the provisions of Section 158 of the Motor Vehicles Act, 1988 (in short "the Act"). Taking into consideration the aforesaid, the mere fact that the claimant did not produce disability certificate before the Tribunal cannot be allowed to stand in his way to prove his disability and payment of adequate compensation in this regard. In this view of the matter, it would be in the interest of justice that the case is remitted to the Tribunal for making assessment of compensation afresh on the basis of materials already on record and additional evidence to be adduced by the claimant to produce and prove disability certificate and evidence in rebuttal, if any, to be led by the insurance company. The Tribunal shall seek opinion of the doctor in respect of functional disability due to 70% disability on account of amputation below knee upto upper 1/3rd right leg.

In view of what has been discussed hereinabove, the appeal is disposed of. Findings of the Tribunal on issue No. 2 qua assessment of compensation are set aside. 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 parties. The parties through their counsel are directed to appear before the Tribunal on 1.4.2019. The Tribunal shall complete assessment of compensation afresh within a period of 4 months of the parties putting in appearance. In the meanwhile, the insurance company shall not be entitle to recover the amount, if any, paid to the claimant.

(Rekha Mittal)
Judge

8.3.2019

PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No