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

**FAO No.5864 of 2015 (O&M)
Date of Decision: 14.01.2019**

Harpal

Appellant

Versus

Mubeen and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Chetan Kapoor, Advocate
for the appellant.

Mr. Rajneesh Malhotra, Advocate
for the Insurance Company.

AVNEESH JHINGAN, J (Oral):

The award dated 20.05.2015 passed in MACT Case No.40, MACP/0001751/2014 by the Motor Accident Claims Tribunal, Gurgaon [for brevity 'the Tribunal'] has been challenged by the claimant seeking enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 [for brevity 'the Act'].

The facts in brief are that on 17.08.2013, a motor vehicular accident occurred involving motor cycle for which registration number was 'applied for' and motor cycle bearing registration No. HR-28B-5423 [hereinafter referred to as 'offending vehicle']. The accident was caused due to the rash and negligent driving of the offending vehicle. As a result of the impact, the appellant sustained injuries and remained hospitalized for 6 days.

The Tribunal after considering the facts and appreciating the evidence adduced awarded ₹5,000/- for transportation, ₹5,000/- for attendant charges and special diet, ₹36,500/- for medical expenses and ₹20,000/- for pain & suffering.

Learned counsel for the appellant contends that there was disability to the extent of 25%, which the Tribunal has not taken into consideration. The photocopy of the Certificate has been produced as Mark-A. He seeks one opportunity to produce the certified copy of the Disability Certificate and to prove the same.

Learned counsel for the insurer argues that in case, the Disability Certificate is produced, the insurer be granted opportunity to verify and rebut the same.

Keeping in view the facts and circumstances of the case, the matter is remitted back to the Tribunal to decide afresh in accordance with law. The Tribunal shall provide opportunity to the appellant as well as insurer to produce fresh evidence in support of their claims, if so desired.

The parties are directed to appear before the Tribunal on 11.02.2019. The copy of Disability Certificate be sent to the Tribunal.

Disposed of accordingly.

[AVNEESH JHINGAN]
JUDGE

January 14th, 2019
pankaj baweja

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|------------------------------|---|---------|
| 1. Whether speaking/reasoned | : | Yes/ No |
| 2. Whether reportable | : | Yes/ No |