

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

CM-16401-CII-2015 in/and
FAO-7310-2015 (O&M)
Date of Decision: October 01, 2019

Sohan Pal

.....Appellant

VERSUS

Piyush and others

.....Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. D.K. Prajapati, Advocate for
the appellant.

Mr. Neeraj Khanna, Advocate for
Mr. Ravinder Arora, Advocate
for respondent No.3.

JAISHREE THAKUR, J.(Oral)

1. This is a first appeal that has been filed by the appellant seeking to challenge the award dated 15.04.2015 passed by the MACT, Ambala seeking enhancement of compensation on account of the injuries sustained by him in the motor vehicle accident which took place on 25.04.2014.

2. In brief, the facts of the case are that on 25.04.2014 the claimant- Sohan Lal was returning back to his home after completing his job from Ambala Coach Builders, Hissar Road, Ambala City on his motorcycle bearing registration No.PB-65P-8995. When he reached on the link road near village Rampur Sarsehri, a motorcycle bearing registration no.HR-

03N-6163 driven by respondent No.1 came from the opposite side, in a rash and negligent manner at a high speed and hit the motorcycle of the claimant-appellant herein and as a result of which, the claimant/appellant sustained injuries. On account of multiple injuries suffered by him, the claimant filed a claim petition.

3. Upon notice, the respondents appeared and contested the claim petition. The driver as well as owner of the offending vehicle denied taking place of any accident and prayed for dismissal of the claim. The claim was contested by the Insurance Company, stating that no accident as alleged took place and a false and manipulated FIR has been registered against respondent No.1 in collusion with the police and prayed for dismissal of the claim petition.

On appreciation of the evidence, the Tribunal awarded compensation for a sum of ₹2,46,000/- to the claimant- Sohan Lal along with 7.5% interest per annum by allowing him a sum of ₹90,000/- for 45% permanent disability, Rs.50,000/- for pain and sufferings and ₹1,06,000/- for medical treatment and special diet.

4. Aggrieved against the inadequate compensation, the instant appeal has been filed.

5. Learned counsel for the appellant would contend that the compensation has wrongly been calculated since the permanent disability was not properly assessed. Learned counsel for the appellant seeks permission to adduce the additional evidence to prove disability certificate dated 29.09.2017, for which he has filed an application bearing No. CM-16401-CII-2015 under Order 41 Rule 27 read with Section 151 CPC.

6. Learned counsel for the Insurance Company has opposed the request to produce additional document in evidence at this stage.

7. I have heard learned counsel for the parties and perused the material available on record. The appellant by way of instant application intend to produce copy of disability certificate. By rejecting the application which is to be considered under Order 41 Rule 27 CPC, this Court would be doing great dis-service to the appellant and therefore, it would be in the fitness of things if the said application is allowed and the appellant is given an opportunity to lead evidence relating to disability certificate.

8. Consequently, the application in hand is allowed. The matter is remanded back to the Tribunal. The parties are directed to appear before the Tribunal on 20.11.2019. On appearance of the parties before the Tribunal, the Tribunal shall give two effective opportunities to the appellant to lead additional evidence to prove the disability certificate dated 29.09.2017 and two equal opportunities to the Insurance Company. The liability to pay compensation shall be re-assessed in terms of the evidence adduced.

9. The appeal is disposed of in the above manner. The summoned record, if any, be also sent back.

October 01, 2019

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**(JAISHREE THAKUR)
JUDGE**

Whether speaking/reasoned
Whether reportable

Yes
No