

FAO No. 7400 of 2015 (O&M)

Date of decision : August 29, 2019

Naval Kishore @ Naval

.....Petitioner

Versus

Satish Kumar and others

....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILLPresent: Mr. N.D. Achint , Advocate
for the appellant.Mr. Ajit Bhardwaj, AAG, Haryana
for respondent No. 2.Ms. Monika Jangra, Advocate for
Ms. Vandana Malhotra, Advocate
for respondent No. 3.

LISA GILL, J.

Present appeal has been filed by the claimants for enhancement of compensation awarded by the learned Motor Accident Claims Tribunal, Gurgaon (hereinafter referred to as the 'Tribunal') vide award dated 29.09.2014.

At the time of issuance of notice of motion, following order was passed:-

“ Notice of motion, returnable by 19.03.2018.

Respondents to show cause; why the matter should not be remanded to the Tribunal for consideration of medical evidence, which could not be produced on record because it was not made available to the injured in time. The claim petition was decided in September, 2014 while the disability certificate was issued to the injured in December, 2014 and obviously it could not be produced to the notice of the Tribunal.

It may be recorded that as per the disability certificate (Annexure A-1) the injured/claimant suffered amputation right foot through tarsal region (40%) as a result of the accident.”

Learned counsel for the appellant reiterates the prayer for remand of the matter before the learned Tribunal.

Learned counsel for the insurance company does not raise any objection to the remand of the matter for recalculation of the compensation awarded to the injured appellant, after affording an opportunity to the appellant to prove the disability certificate in accordance with law, besides an opportunity to the respondents to rebut the same.

In view of the facts and circumstances as above and the specific stand of the parties, award dated 29.09.2014 is set aside to the extent of calculation of the compensation and the matter is remanded to the learned Tribunal for a decision afresh on that aspect after affording an opportunity to the appellant to prove disability certificate (Ex.A1) in accordance with law. Needless to say, the respondent - insurance company shall be afforded an opportunity to rebut the same.

Appeal is, accordingly, disposed of.

August 29, 2019
rts

(Lisa Gill)
Judge

Whether speaking/reasoned :	Yes/No
Whether reportable :	Yes/No