

214(A)

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

FAO No.8209 of 2015 (O&M)
Date of Decision : 07.05.2019

Reliance General Insurance Company Ltd.

Appellant

Versus

Bablu @ Vinod and others

Respondents

FAO No.5779 of 2015 (O&M)

Bablu @ Vinod

Appellant

Versus

Jagdish Chander and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Sanjeev Kodan, Advocate
for the appellant [in FAO No.8209 of 2015]
for respondent No.3 [in FAO No.5779 of 2015].

Mr. Gaurav Aggarwal, Advocate
for the appellant [in FAO No.5779 of 2015]
for respondent No.1 [in FAO No.8209 of 2015].

Mr. Dheeraj Narula, Advocate
for respondents No.2 & 3 [in FAO No.8209 of 2015]
for respondents No.1 & 2 [in FAO No.5779 of 2015].

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AVNEESH JHINGAN, J (Oral)

The award dated 26.03.2015 passed by the Motor Accident Claims Tribunal, Sirsa [for brevity 'the Tribunal'] has been assailed by filing two separate appeals. One by the insurer of vehicle bearing registration No. HR-57-3271 [hereinafter referred to as 'offending vehicle'] and another by the claimant. Since both these appeals arise from same accident and award, these are being disposed of by a common order.

The factum of accident is not disputed by the parties. A motor vehicular accident took place on 24.08.2010. In the said accident, Bablu @ Vinod, aged 12 years sustained injuries. The accident was result of rash and negligent driving of the offending vehicle. The owner, driver and insurer were held jointly and severally liable to pay the compensation.

A Disability Certificate Ex.PW3/A was produced. The Certificate stated that Bablu became mentally disabled to the extent of 75%. In order to prove the said Certificate, Dr. Pallavi Raj, Clinical Psychologist, Medical College, Rohtak was cross-examined. The Tribunal awarded compensation of ₹10,87,385/- alongwith interest @ 8% per annum. The detail of compensation is as under:-

Sr. No.	Heads	Amount (in ₹)
(i)	Hospital Bill (Ex.P23)	71,570/-
(ii)	Medicines, Tests, Blood Bills etc. Ex.P24 to 107	1,07,408/-
(iii)	Medicines, Tests, Blood Bills etc. Ex.P108 to 199	66,407/-
(iv)	Pain and sufferings (victim remained admitted in hospital from 24.08.2010 to 29.09.2010), from (19.02.2011 to 22.02.2011), (23.2.2012 to 25.2.2012)	1,00,000/-
(v)	Attendant charges including for future	50,000/-
(vi)	Loss of earning capacity (75% mental disability) = 2000x12= 24000x18=4,32,000/-	4,32,000/-
(vii)	Loss of amenities of life	1,00,000/-
(viii)	Loss of marriage prospects	1,00,000/-
(ix)	Diet/Transportation	10,000/-
(x)	Future medical expenses	50,000/-
	Total Compensation	10,87,385/-

The grievance raised by learned counsel for the insurer is that the Certificate relied upon was issued by an individual Doctor and not by the Medical Board.

Learned counsel for the claimant argues that amount awarded by the Tribunal is on the lower side. He further argues that the Certificate issued is valid as it was issued by a Specialized Doctor.

Before deciding the issue regarding quantum of compensation, it would be necessary to decide first the validity of the Disability Certificate. For the said purpose, further evidence would be required to be produced by the parties to

establish whether the Certificate issued by Doctor individually would be sufficient or the same is required to be issued by the Medical Board.

There would be another aspect of the matter. The accident is of the year 2010. The claimant was 12 years old at the time of accident, the period of 08 years has passed. In order to arrive at just and equitable compensation, it may be necessary that the claimant's permanent disability be re-assessed.

Without expressing any opinion on the merits of the case, the only issue with regard to quantum of compensation is remitted back to the Tribunal. The parties would be at liberty to adduce evidence in support of their claims. The claimant would be entitled to establish, if so desired, that the Certificate issued is as per rules prevalent in the State of Haryana.

The parties are directed to appear before the Tribunal on 11.07.2019.

Both the appeals are disposed of accordingly.

[AVNEESH JHINGAN]
JUDGE

May 07, 2019

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