

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

F.A.O. No.7747 of 2017 (O&M)

Date of Decision: 13.03.2019

Kamal Dhiman

.....Appellant

Versus

Rajesh Kumar and others

.....Respondent

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Bhavdeep Mamli, Advocate
for the appellant.

AVNEESH JHINGAN, J.(oral)

The award dated 28.7.2015 passed by Motor Accident Claims Tribunal, Kurukshetra (hereinafter referred to as 'the Tribunal') has been assailed by the claimant seeking enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act').

The brief facts are that on 29.1.2013 the appellant was going to Gian Ganga Polytechnic, Hingakheri, on a motor cycle bearing registration No.HR-07-M-9686. On his way, his motor cycle was struck by a truck bearing registration No.HR-46-A-8287 (hereinafter referred to as 'the offending vehicle'). As a result of the impact, he sustained grievous injuries and was taken to LNJP Hospital, Kurukshetra, from where he was referred to Government Medical College and Hospital, Sector 32, Chandigarh. FIR was registered.

In the claim petition filed, the Tribunal after considering the facts and on appreciating the evidence adduced held that the accident was caused due to rash and negligent driving of the offending vehicle. The Tribunal awarded a

company was held liable to pay the compensation.

The breakup of the compensation awarded is given below:

Sr. No.	Particulars	Amount
1.	Medical expenses	₹ 11,684/-
2.	Pain and suffering	₹ 10,000/-
3.	Special diet, attendant charges and conveyance charges	₹ 20,000/-
4.	Total	₹ 41,684/-

Heard learned counsel for the appellant and perused the relevant document produced by him.

Learned counsel for the appellant contends that disability has not been considered by the Tribunal while awarding the compensation. From the perusal of the award, it is evident that no disability certificate was produced before the Tribunal. Even Ex.P4 i.e. medico-legal report was produced before the Tribunal and that too was the carbon copy which was not legible. Dr. S.S. Arora, Medical Officer, LNJP Hospital, Kurukshetra deposed as PW4 and stated that he had examined the appellant on 29.1.2013 with alleged history of a road side accident. He proved the medico-legal report. The nature of injuries were not specified by the said Doctor.

With the appeal, a disability certificate dated 18.3.2015 issued by Orthopaedic Surgeon, LNJP Hospital, Kurukshetra has been annexed, stating that there is 8% physical disability. There is no explanation as to why the said certificate was not produced before the Tribunal. The certificate nowhere mentions whether the disability is permanent or temporary. Nature of injuries was not proved before the Tribunal. Certificate only mentions that there is 8% disability and loss of one teeth in the alleged history of road side accident.

At this belated stage, it would not be possible to co-relate the said

certificate with the injuries sustained in the accident and moreso when the nature of injuries were not proved before the Tribunal.

No ground is made out for enhancement of compensation.

Dismissed.

As the appeal has been dismissed, the question of limitation has been kept open.

13.03.2019
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(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable:	No