

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

**FAO No.2263 of 2016
Date of Decision: 12.03.2019**

Jagdish Chand

Appellant

Versus

Rajesh Sareen and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Kulvir Narwal, Advocate
for the appellant.

Mr. Deepak Suri, Advocate
for respondent No.3-Insurance Company.

AVNEESH JHINGAN, J (Oral):

The award dated 01.12.2015 passed by the Motor Accident Claims Tribunal, Jhajjar [for brevity 'the Tribunal'] has been assailed by the claimant seeking enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 [for brevity 'the Act'].

[2] The facts in brief are that a motor vehicular accident took place on 30.07.2011 involving auto-rickshaw bearing registration No. HR-55D-9312 and Car bearing registration No. DL-9CN-5929 [hereinafter referred to as 'offending vehicle']. The appellant sustained grievous injuries. FIR No.261, dated 30.07.2011 was registered at Police Station City, Bahadurgarh.

[3] In the claim petition filed under Section 166 of the Act, it was proved that the appellant was serving with Delhi Transport Corporation (DTC) as a driver at the time of accident. It was also proved that as a consequence of injuries suffered in the accident, he had to take pre-mature retirement from the service.

[4] The grievance raised by learned counsel for the appellant in the present appeal is that the Tribunal has taken the loss of income as ₹10,000/- per month without determining the percentage of disability qua whole body, and awarded ₹6,00,000/- for loss of income.

[5] Learned counsel for the appellant contends that functional ability was affected to the extent of 100% as there was pre-mature retirement on medical grounds and compensation should have been calculated by considering his proved salary.

[6] Learned counsel for the Insurer argues that after pre-mature retirement, certain benefits were received by the appellant which have to be considered.

[7] For deciding the issue of amount of compensation for permanent disability, certain factual aspects need to be decided for which further evidence is required to be adduced. Without expressing any opinion on the merits of the case, the issue only with regard to determining the loss of income on ground of permanent disability is remitted back to the Tribunal to be decided afresh in accordance with law, after providing opportunity to the parties to adduce fresh evidence in support of their claims.

[8] The parties are directed to appear before the Tribunal on 30.04.2019. It is, however, clarified that remitting the matter back to the Tribunal would not affect the amount of compensation already awarded for loss of income, pain & suffering as well as for transportation etc.

[9] The appeal is disposed of.

[AVNEESH JHINGAN]
JUDGE

March 12, 2019
pankaj baweja

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