

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

**FAO No. 574 of 2018 (O&M)
DECIDED ON: JANUARY 30, 2019**

JOGINDER SINGH

.....APPELLANT

VERSUS

CHAIN SINGH AND ANOTHER

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Vikrant Rana, Advocate
for the appellant.

Mr. Punit Jain, Advocate for
Mr. M.B. Jain, Advocate
for the respondent-Insurance Co.

AVNEESH JHINGAN J. (ORAL)

The award dated 02.01.2017 passed by the Motor Accident Claims Tribunal, S.A.S. Nagar Mohali (for brevity 'the Tribunal') has been assailed by the claimant seeking enhancement of compensation awarded under Section 166 of Motor Vehicles Act, 1988 (for short 'Act').

The driver-cum-owner of truck bearing registration No. HP-20-B-6136 (hereinafter referred to as the 'offending vehicle') and insurer (i.e. The New India Assurance Company Ltd.) of the offending vehicle have been arrayed as respondents No.1 and 2 respectively in the appeal.

The brief facts necessary for adjudication of the present appeal are that on 23.08.2015 Joginder Singh alongwith his wife and children was travelling in a car. On his way, the car was hit by a rashly and negligently driven offending vehicle. As a result of the impact, appellant, his wife and children suffered injuries. They were taken to Civil Hospital, Una from where they were referred to PGI, Chandigarh. FIR No. 272, dated 24.08.2015 was registered at Police Station Una Sadar.

A claim petition under Section 166 of Motor Vehicles Act, 1988 (for short 'the Act') was filed. The Tribunal after considering the facts and on appreciating the evidence adduced, held that the accident was caused due to the rash and negligent driving of the offending vehicle. The driver-cum-owner and insurer of the offending vehicle were held jointly and severally liable to pay the compensation. The Tribunal awarded a compensation of ₹1,72,000/- alongwith interest @ 9% per annum.

Alongwith the appeal, an application under Order XLI Rule 27 of the Civil Procedure Code, 1908 seeking permission to lead additional evidence has been filed. A disability certificate is annexed with the afore-said application as Annexure A-1. Reply filed by the learned counsel for the insurer to the afore-said application is taken on record, subject to all just exceptions.

Learned counsel for the appellant submits that the appellant has suffered disability. He submits that the certificate was issued after the passing of the award. Hence, the same could not be produced before the Tribunal.

For awarding just and equitable compensation certain factual aspects are required to be proved by adducing further evidence. The disability

certificate has been produced in the appeal for the first time and it would not be appropriate to consider the disability certificate at this stage without affording an opportunity to the insurer to verify or to rebut the same.

The matter is remitted back to the Tribunal to decide the issue of quantum afresh, after affording an opportunity to both the parties to adduce evidence in support of their claims. It is, however, clarified that fresh evidence shall be adduced only qua the document produced before this Court.. It is also clarified that the remanding of the matter shall not affect the amount already awarded by the Tribunal.

Parties are directed to appear before the Tribunal on 12.03.2019.

Disposed of, accordingly.

The disability certificate attached with the application be also sent to the Tribunal.

(AVNEESH JHINGAN)
JUDGE

JANUARY 30, 2019
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Whether speaking/reasoned:
Whether reportable :

Yes / No
Yes / No