

In the High Court of Punjab and Haryana at Chandigarh

FAO- 1417 of 1998 (O&M)
Date of Decision: 17.1.2020

Davinder Singh

---Appellant

versus

Jagjit Singh and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr. Sanjiv Gupta, Advocate
for the appellant**

**Mr. Naveen Kapoor, Advocate,
for respondent No. 3**

Rekha Mittal, J.

Challenge in the present appeal has been directed against award dated 1.4.1998 passed by the Motor Accidents Claims Tribunal, Karnal (in short “the Tribunal”) whereby application for grant of compensation in respect of injuries sustained by the claimant in a motor vehicular accident that took place on 19.10.1995 has been dismissed as the claimant failed to adduce evidence despite sufficient opportunities being allowed to examine the witnesses.

Counsel for the appellant would argue that injured has suffered disability to the extent of 75% because of amputation of right elbow and an application has been filed for additional evidence seeking permission to produce disability certificate issued by the medical board.

Though an application has been filed for producing disability

certificate but counsel did not bother to appreciate that merely by producing disability certificate, it would not advance cause of the claimant to secure compensation as no evidence was adduced to prove issue No. 1 in respect of accident being the result of rash and negligent driving of offending vehicle.

Counsel for the appellant, when confronted with the situation would pray that the award may be set aside and appellant may be allowed two effective opportunities to adduce his entire evidence.

Counsel for the insurance company, on the contrary, would submit that petition was filed in the year 1996 and dismissed on 1.4.1998. In case, the appellant is permitted to adduce evidence, it would amount to re-opening a case decided about two decades ago.

The injured is fortunately alive and can be examined before the Tribunal. Counsel representing him before the Tribunal did not bother to ensure his presence for examination. The provisions providing for compensation are benevolent social legislation to make good the loss, the victim or victim family has suffered. The Tribunal owes an obligation to assess just and reasonable compensation even in case where a report has been received under Section 158 of the Motor Vehicles Act, 1988. Taking into consideration the legislative intent with which the provisions providing for compensation to a victim have been enacted to do complete justice to the injured, interest of justice commands that award passed by the Tribunal is set aside and the matter is remitted to the Tribunal for deciding the case afresh on the basis of evidence to be adduced by the claimant and rebuttal evidence, if any, by the respondents therein. The Tribunal shall procure presence of respondents No. 1 and 2. In case the proceedings are contested

by either of the private respondents and compensation is assessed in favour of the claimant, the Tribunal shall be at liberty to pay a reasonable amount to respondents No. 1 and 2 therein towards costs as they have to face trial again because of failure of the claimant to adduce evidence at an appropriate stage of the proceedings.

In view of what has been discussed hereinbefore, the appeal is allowed. The award passed by the Tribunal is set aside and the matter is remitted to the Tribunal for decision of the case afresh. The claimant shall be entitle to two effective opportunities for adducing evidence. The respondents therein are entitle to lead evidence in rebuttal. The respondents would be at liberty to raise an issue with regard to period for which the claimant shall not be entitle to interest in case his claim for compensation is allowed. The parties are directed to appear before the Tribunal on 17.2.2020. The Tribunal shall dispose of the matter within a period of six months of parties putting in appearance.

(Rekha Mittal)
Judge

17.1.2020

PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No