

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

FAO-3746-2004 (O&M)

Date of decision: 23.11.2021

Sukhwinder Singh

...Appellant

Versus

Balbir Singh and others

...Respondents

CORAM: HON'BLE MR.JUSTICE H.S. MADAAN

Present: Mr. Harsh Aggarwal, Advocate for the appellants.

Mr. Hittan Nehra, Addl. A.G., Punjab.

Mr. Vinod Gupta, Advocate for respondent No.3.

H.S. MADAAN, J. (Oral)

Case taken up through video conferencing.

Petitioner Sukhwinder Singh, son of Surjan Singh, resident of village Sherpur Golind, Tehsil & District Hoshiarpur, aged about 27 years, through his father Surjan Singh had filed a claim petition under Section 166 of the Motor Vehicles Act against Balbir Singh-driver, M/s Vijay Kumar, Narinderpal, Mohalla Premgarh, Hoshiarpur-owner and National Insurance Company Ltd., Hoshiarpur-insurer of truck No.PB-07-E-0951 besides impleading Sukhdev Singh-driver, General Manager, Punjab Roadways, Pathankot, State of Punjab through its Secretary Transport, Punjab, Chandigarh and Director State Transport, Punjab, Chandigarh-owners of bus No.PB-12-B-8810 claiming compensation of Rs.10 lacs on account of suffering bodily injuries in a motor vehicular

accident, which had taken place on 11.02.2001 at about 4.30 AM in the area of a little short of Samundra, statedly on account of rash and negligent driving of truck No.PB-07-E-0951 and bus No.PB-12-B-8810. The claimant was travelling in bus No.PB-12-B-8810 at that time. In that accident, claimant and various passengers had suffered injuries, whereas, 04 of the passengers had unfortunately expired. Formal FIR was registered. The claimant was hospitalized and had to take treatment. As a result of suffering injuries, he had suffered permanent disability.

Notice of the claim petition was given to the respondents, who had put in appearance and contested the claim petition. Issues on merits were framed. The parties were afforded adequate opportunities to lead evidence. After hearing arguments, the Motor Accidents Claims Tribunal, Hoshiarpur (for short 'the Tribunal') vide award dated 06.05.2004, had accepted the claim petition and awarded compensation of Rs.2,65,400/- to the claimant, payable by respondents No.4 to 7 jointly and severally. The claimant was awarded interest 9% p.a. from the date of filing the claim petition till deposit of the amount.

Feeling aggrieved that the compensation awarded to him was inadequate, the claimant had approached this Court by way of filing appeal, notice of which was given to respondents No.4 to 7, who have put in appearance through State counsel. Respondent No.3-National Insurance Company had also put in appearance through counsel.

I have heard learned counsel for the parties besides going through the record.

An application bearing No.CM-12930-CII-2021 has been filed on behalf of the claimant/appellant for permission to prove hospitalization/discharge card, medical bills etc., by way of additional evidence. Although, such application had been filed by the claimant before the Tribunal also but the same was dismissed.

After hearing the counsel and going through the record, I find that the Tribunal fell in error in doing so. The claimant should have been given an opportunity to prove such documents in evidence, though, it was for the Tribunal to see as to how much weightage was to be given to such evidence. It has further been contended that on account of suffering injuries in the accident, the claimant had suffered permanent disability to the extent of 50% and a medical certificate in that regard had been placed on record. At the time when the proceedings were pending before the Tribunal, such certificate could not be procured by the claimant and now the claimant is having the same. Such certificate is required to be proved in accordance with law and it has to be seen as to whether the percentage of disability said to be permanent relates to the entire body or to a particular part thereof. Section 166 of the Motor Vehicles Act is a piece of welfare legislation. It was enacted to provide prompt compensation to persons, who sustained injury or owner of the property damaged or to legal representatives of person, who got killed in a road side accident. Hyper technical approach is not to be adopted in such type of cases. Therefore, I find that the evidence is required to be recorded for proving the medical bills and disability certificate and proper forum for doing so would be the Tribunal. The findings recorded by the

Tribunal on issues No.1 to 3 need not be interfered with, whereas, the award is liable to be set aside as regards issue No.4 by way of accepting the appeal. Accordingly, the appeal is accepted and the case is remanded to Motor Accidents Claims Tribunal, Hoshiarpur with a direction to allow the claimant to lead evidence with regard to medical bills and disability certificate etc., to be proved in additional evidence and then an opportunity may be given to the contesting respondents to rebut that evidence. Thereafter, the Tribunal may pass a fresh award particularly with regard to issue No.4 in accordance with law. Since the case is quite old, the entire exercise be preferably completed within a period of 03 months from the date of receipt of copy of this judgment in the Tribunal.

As per request of learned counsel for the appellant and In the interest of justice, the compensation amount already paid by respondents No.4 to 7 would not be recovered from the claimant till passing of the fresh award by the Tribunal.

The parties through counsel are directed to appear before the Tribunal on 10.12.2021. The record available be also sent to the Tribunal at the earliest by the Registry of this Court.

23.11.2021

sumit.k

(H.S. MADAAN)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No