

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

FAO No. 1926 of 2018

DATE OF DECISION :- December 06, 2022

Harivansh alias Bantu

...Appellant

Versus

Chiranji Lal and others

...Respondents

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

Present:- Mr. Kapil Aggarwal, for the appellant.

Mr. Vinod Gupta, Advocate
for respondent No. 3-Insurance Company.

Appellant claimant Harivansh alias Bantu had filed a claim petition against respondents Chiranji Lal, Driver, Lal Chand, owner and United India Insurance Company Limited, Alwar, insurer of Pick-up No. HR-66A-3547 alleging that he had suffered injuries in a motor vehicular accident which took place on 14.11.2014 at about 8 P.M in the area of City Narnaul near Koriawas turn on account of rash and negligent driving of Pick-up No. HR-66A-3547. Notice of that claim petition was given to the respondents, who put in appearance and contested the claim petitions. Issues on merits were framed. The parties were afforded adequate opportunities in respect of their respective claims.

After hearing the arguments, the Motor Accident Claims Tribunal, Narnaul vide Award dated 31.8.2017 awarded compensation of Rs.1,50,000/- to the claimant payable by all the respondents jointly and severally. Being of the view that the compensation awarded to him was on lower side, the claimant has approached this Court by way of filing the

appeal, notice of which was given to the respondent Insurance Company. Such respondent Insurance Company has appeared through counsel.

At the very outset, learned counsel for the appellant claimant has submitted that in the accident the appellant claimant had suffered permanent disability of 73% in terms of the certificate issued to him by Medical Superintendent, Civil Surgeon, Narnaul (Ex.P-54), however, the doctor could not be examined during the evidence adduced by the claimant with the result that certificate was not taken into consideration and the compensation awarded to the claimant was on very low side. He prays that the appellant claimant be permitted to prove the certificate in evidence by causing appearance of Doctor before the Tribunal who had examined the claimant injured and assessed his disability. The request is not opposed by learned counsel for the respondent Insurance Company.

Even otherwise, keeping in view the nature of proceedings and in the interest of justice, I find it proper and appropriate to allow the request. However, for that purpose, the case is required to be remanded to the Motor Accident Claims Tribunal, Narnaul so as to record the evidence to be produced by the claimant to prove the disability certificate by examining the Doctor in question, giving an opportunity to the respondent Insurance Company to cross examine that witness as it is to produce evidence in rebuttal, if so desired. As such the Award in question is set aside and matter is remanded to Motor Accident Claims Tribunal, Narnaul to fix a date for recording medical evidence produced by the claimant. Reasonable opportunities be granted to him for that purpose. Necessary assistance in the form of issuing notice or summons for the witness concerned be provided.

Thereafter opportunity be given to respondents to adduce evidence in rebuttal. Then after hearing arguments, the matter be decided afresh particularly with regard to quantum of compensation payable to the claimant. The parties through counsel are directed to appear before Motor Accident Claims Tribunal, Narnaul on 6.1.2023.

Learned counsel for the claimant has stated that the claimant has received the compensation under the Award as informed by learned counsel for the Insurance Company which he be not required to return the amount to the Insurance Company. So it is directed that amount of compensation already paid to the claimant would not be got refunded from him till fresh Award is passed by the Tribunal in terms of the order passed today.

The appeal is disposed of accordingly.

**(H.S. MADAAN)
JUDGE**

December 06, 2022

p.singh

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No