

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

FAO No. 1985 of 2018

DATE OF DECISION :- December 06, 2022

Surender Kumar

...Appellant

Versus

Chiranji Lal and others

...Respondents

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

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

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

Appellant claimant Surender Kumar 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.20,000/- 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 prayed that the claimant wants to examine the Doctor who had performed surgery upon the claimant and had otherwise treated him medically. The request is not opposed by learned counsel for the respondent Insurance Company.

Even otherwise, keeping in view the nature of all 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 examine the Doctor who had performed surgery upon the claimant and had otherwise treated him medically, to record his evidence to be produced by the claimant by examining the Doctor in question, given an opportunity to the respondent Insurance Company to cross examine that witness and 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 evidence of the Doctor. Reasonable opportunity be granted to him for that purpose. Necessary assistance in the form of issuing notice or summons to 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