

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

**FAO No. 1964 of 2015**

**DATE OF DECISION :- February 13, 2023**

**Smt. Rasidan @ Rasso**

**...Appellant**

**Versus**

**Nisar and others**

**...Respondents**

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

**Present:-** Mr. Ashish Gupta, Advocate for the petitioner.

Ms. Madhu Sharma, Advocate  
for respondent No. 3-Insurance Company.

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Briefly stated facts of the case are that Smt. Rasidan @ Rasso had suffered injuries in a motor vehicular accident which took place on 27.12.2012 at about 2.00 P.M in the area within jurisdiction of Police Station, Nagina, Mewat statedly on account of rash and negligent driving of offending Car No. HR-28D-3733 by its driver Nisar. This Car belong to respondent No. 2 Wasim and was insured with the National Insurance Company Limited, New Delhi at relevant time.

Injured Smt. Rasidan @ Rasso had brought a claim petition under Section 166 of the Motor Vehicles Act, 1988 against driver, owner and Insurance Company of the Car involved in the accident. After contest, the claim petition was accepted and vide Award dated 15.12.2014 compensation of Rs.32,800/- was awarded to petitioner claimant payable by all the three respondents jointly and severally.

Finding the compensation awarded to be on lower side, the petitioner claimant has approached this Court by way of filing the present

appeal, notice of which was given to respondent Insurance Company and such Insurance Company has put in appearance through counsel.

During the course of arguments, the appellant has filed an application for additional evidence so as to prove her disability certificate showing that she has suffered permanent disability to the extent of 40%. That application is not being opposed on behalf of the Insurance Company. However, I find that that certificate needs to be proved by the doctor who had examined the appellant petitioner and then assessed her permanent disability. Only such doctor can clarify as to whether the disability assessed is regarding a particular part of body or qua the entire body. Therefore, the evidence in that regard has to be led and thereafter an opportunity is to be afforded to respondents to rebut that evidence in case they so desire. The entire exercise is to be done by the Motor Accident Claims Tribunal, Mewat (also referred to as the Tribunal).

Accordingly, as agreed by learned counsel for the parties, this appeal is disposed of and the case is remanded to the Tribunal. Resultantly, the impugned Award is set aside with regard to issue No. 2 only whereas the findings on other issues are kept intact. The Tribunal shall record statement of the doctor who had examined the appellant petitioner assessing her permanent disability or if that doctor is not available, any other doctor or official desired to be examined by the petitioner claimant giving an opportunity of cross examination to the respondents. Thereafter the respondents be given an opportunity to lead evidence in rebuttal if they so desire and then a fresh Award be passed by giving finding on issue No. 2 in terms of the latest law on the subject. Since the case is quite old and the incident is of the year 2012, the entire exercise be completed preferably

within three months from the date of receipt of copy of the order by Motor Accident Claims Tribunal, Mewat. The parties through counsel are directed to appear before the Tribunal on 1.3.2023. Since the original disability certificate is said to be in custody of the appellant petitioner, the same be produced there by her. It is further clarified that the compensation amount already received by the appellant petitioner shall not be recovered from her during pendency of the matter before the Tribunal.

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

**February 13, 2023**  
*p.singh*

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|---------------------------|--------|
| Whether speaking/reasoned | Yes/No |
| Whether Reportable        | Yes/No |