

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

**FAO No. 7685 of 2014 (O&M)
DATE OF DECISION :- May 22, 2023**

Kalam Singh Rawat

...Appellant

Versus

Sarabjit Singh and others

...Respondents

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

Present:- Mr. Raman Mahajan, Advocate for the appellant.

Ms. Deepali Puri, Advocate for respondent.

1. Briefly stated the facts of the case are that petitioner Kalam Singh Rawat had brought a claim petition against respondents Sarabjit Singh and Kamaljit Singh under Section 166 of the Motor Vehicle Act, 1988 seeking compensation on account of injuries suffered in a motor vehicular accident, which took place on 19.4.2012 after mid night in the area of near PGI, Chandigarh, statedly on account of rash and negligent driving of Scorpio vehicle bearing registration No. CH03-U-0096 by respondent No. 1 Sarabjit Singh, such vehicle being owned by respondent No. 2 Kamaljit Singh.

2. After contest by respondents the claim petition was accepted by Motor Accident Claims Tribunal, Chandigarh vide Award dated 11.2.2014 and compensation of Rs.75,000/- was awarded to claimant payable by the respondents with interest at the rate of 7.5% per annum from the date of filing of claim petition till actual realization besides cost of the petition.

3. Finding the compensation awarded to be on lower side, the claimant has approached this Court by way of filing an appeal, notice of which was given to respondents, however, respondents No. 1 and 2 have put in appearance through counsel.

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

5. Learned counsel for the appellant claimant has pointed out that after the decision of the claim petition by the Motor Accident Claims Tribunal, Chandigarh the appellant claimant has got himself examined from the medical Board of PGI, Chandigarh and in terms of disability certificate dated 7.5.2014, he was found to have suffered 44% permanent disability and this certificate is required to be produced to determine the quantum of compensation to which the claimant is entitled. The original certificate in that regard has been placed on record along with an application under Order 41 Rule 27 CPC for permission to lead additional evidence.

6. After hearing learned counsel for the parties and going through the record I find that the case is required to be remanded to the Motor Accident Claims Tribunal, Chandigarh in order to enable the claimant to summon the concerned doctor to prove the disability certificate and respondents are to be given an opportunity to cross-examine such doctor and then to lead evidence in rebuttal, if they so want.

7. Accordingly, the appeal is disposed of. The Award under challenge is set aside to the extent of quantum of compensation calculated/awarded. The Motor Accident Claims Tribunal is to allow the claimant to summon the concerned doctor from PGI, Chandigarh to prove the disability certificate and allow the respondents to cross-examine such

doctor. The claimant may be permitted to get his additional statement recorded with regard to permanent disability and respondents would be allowed to cross-examine him on that point. Thereafter, the respondents may be allowed to lead evidence in rebuttal and then a fresh Award be passed.

8. However, findings on issue no. 1 may not be disturbed since it has not been challenged by the respondents by way of filing cross-objection/cross appeal. Then a fresh Award be passed. Since the accident relates to the year 2012 more than 11 years have elapsed, therefore, the Tribunal is directed to conclude the proceedings and pass a fresh Award within a period of six months from the date of receipt of copy of this order. It is clarified that if any amount has been paid/deposited under the impugned Award then the same may not be recovered from the claimant during pendency of the proceedings before the Motor Accident Claims Tribunal, Chandigarh. The parties through counsel are directed to appear there on 17.7.2023. The date has been fixed considering the fact that the Courts are going to be closed for vacations during the month of June.

9. The Registry is directed to hand over the original disability certificate to the claimant on a photostat copy thereof placed on record which is to be attested as true copy by the counsel, against a valid receipt. If the original record has been requisitioned from the Motor Accident Claims Tribunal, Chandigarh the same be returned there immediately.

(H.S. MADAAN)

JUDGE

May 22, 2023

p.singh

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