

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

(215)

**CM-9162-CII-2017
CM-9163-CII-2017
XOBJC-204-CII-2017
CM-23032-CII-2017
CM-23033-CII-2017 in &
FAO-2725-2017
Date of Decision : April 21, 2023**

New India Assurance Company Ltd.**.. Appellant**

Versus

Navneet and others**.. Respondents****CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI**

Present: Mr. Varun Sharma, Advocate, for
Mr. Rajesh K. Sharma, Advocate, for the applicant-appellant.

Ms. Ekta Thakur, Advocate,
for respondent No.1-cross objector.

HARSIMRAN SINGH SETHI J. (ORAL)**CM-9162-CII-2017**

As prayed for, the application is allowed.

Delay of 31 days in filing the appeal is condoned.

CM-23032-CII-2017

As prayed for, the application is allowed.

CM-23033-CII-2017

As prayed for, the application is allowed.

FAO-2725-2017

By this order, first appeal i.e. FAO No.2725 of 2017 and cross
objections raised being XOBJC-204-CII-2017 are being decided.

Respondent No.1 in the first appeal raised a claim before the

Motor Accident Claims Tribunal, Chandigarh by stating that on 10.10.2013, he had met with an accident with a three wheeler having No.CH03X 1387 and he suffered injuries on his right arm. It was further alleged that he remained admitted in the Government Hospital, Sector 16, Chandigarh wherein, he was operated upon.

Keeping in view the evidence which came on record, a sum of Rs.38,000/- was awarded as compensation by the Motor Accident Claims Tribunal, Chandigarh vide Award dated 30.09.2016 which has been challenged by both the parties in the present litigation.

Learned counsel for the Insurance Company submits that in the present case, initially in the DDR recorded, the claimant has mentioned that he has not claimed anything against the driver of the offending vehicle whereas in order to overcome to the said statement, another DDR was recorded which shows that the claim was bogus. Whereas, learned counsel for the claimant submits that while awarding the claim, all the factors required to be considered keeping in view the injuries suffered, have not been kept in mind and therefore, the compensation needs to be enhanced.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

The only argument raised on behalf of the Insurance Company is that once the claimant had mentioned in the first DDR that he does not want to take action against the driver of the offending vehicle, he could not have changed his stance by getting another DDR recorded.

It may be noticed that if under any misconception, it was mentioned in a DDR that he does not want to take an action against the driver of the offending vehicle, same does not mean that there was no

accident or the driver of the offending vehicle was not at fault.

Once realizing his mistake, the claimant registered another DDR again which has been taken into account by the Tribunal, said action of the Tribunal cannot be termed as arbitrary or illegal so as to deny the compensation to the victim especially when it is proved that he had suffered injury in the said accident, hence, the argument raised in the appeal filed by the Insurance Company cannot be accepted.

No other argument was raised.

Keeping in view the facts and circumstances, no ground for interference by this Court is called for. Appeal is accordingly dismissed.

XOBJC-204-CII-2017

While arguing the cross-objection, learned counsel for respondent No.1 submits that the claim has not been assessed correctly.

On being asked to point out the discrepancy, learned counsel for respondent No.1 has not been able to point out any perversity in the findings recorded by the Tribunal.

In the absence of any perversity, no interference is called for by this Court.

Keeping in view the above, appeal and cross-objections are accordingly dismissed.

CM-9163-CII-2017

As the main appeal has been dismissed, present application also stands dismissed.

April 21, 2023
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No