

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

285

FAO-4600-2023 (O&M)

Decided on : December 11, 2023

SANTOKH SINGH

..... Appellant

Versus

TIRATH RAM AND OTHERS

..... Respondents

CORAM : HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Inderpreet Singh, Advocate
for the appellant.

Mr. Shashwat Prateek Panda, Advocate with
Mr. Deepender Banger, Advocate
for the respondent-Insurance Company.

NAMIT KUMAR, J. (Oral)

1. The present appeal has been filed to modify award dated 12.07.2023 passed by learned Motor Accident Claims Tribunal, Hoshiarpur (for short, 'the Tribunal') whereby an amount of Rs. 1,16,696/- along with interest @ 7.5% per annum has been awarded in favour of claimants with a prayer to enhance the compensation to the tune, as claimed in original claim petition along with interest @ 18% per annum from the date of the accident.

2. At the outset, learned counsel for the appellant has pointed out the finding recorded in para no.18 of the impugned award, wherein it has been recorded that in order to prove the disability suffered by the complainant -CW2, Dr. Sunil Kumar has been examined, who has proved the disability certificate as Ex.44, vide which the disability was assessed as 90 %. He further deposed that the disability of the claimant is not permanent rather the same is temporary in nature, as it was specifically stated by the said doctor that since the treatment of the patient is still continuing, therefore, he cannot mention that the disability is permanent in Ex.C44.

3. Learned counsel for the appellant has annexed disability certificate dated 20.07.2023 (Annexure A-1) alongwith application filed under Order 41 Rule 27, wherein the disability of Santokh Singh has been assessed as 90 % (permanent). He further submits that in view of this development, it would be in the fitness of things that the matter is remanded back to the Tribunal for fresh adjudication while considering the aforesaid certificate, which is required to be proved before the Tribunal in accordance with the law. He further submits that in the impugned award no finding with regard to the income of the injured has been recorded.

4. Pursuant to the notice of motion issued by this Court on 31.08.2023, Mr. Shashwat Prateek Panda, Advocate has put in appearance on behalf of respondent-Insurance Company and filed Power of Attorney, which is taken on record, and he has no objection, if the matter is remanded back to the Tribunal for fresh decision.

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

6. Without expressing any opinion on the merits of the case, it is deemed appropriate to remit the matter back to the Tribunal to re-assess the compensation afresh in accordance with law.

7. Ordered accordingly.

8. The parties would be at liberty to adduce fresh evidence in support of their cases. It is clarified that the amount already awarded, if any, would be subject to the decision of the remand proceedings.

9. Parties are directed to appear before the Tribunal within one month.

10. The record available, if any, be also sent to the Tribunal at the earliest by the Registry of this Court.

11. The appeal is disposed of accordingly.

12. All pending application(s), if any, shall stand disposed of.

December 11, 2023

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**(NAMIT KUMAR)
JUDGE**

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