

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****FAO 3117/2017 (O&M)
Date of decision: 20.04.2023****Mangat****.....Appellant****Vs.****Balpreet Singh and others****.....Respondents****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Dheeraj Narula, Advocate for the appellant.
Mr. Kashish Garg, Advocate for respondents no. 2 and 3
Mr. Lalit Garg, Advocate for respondent no.4.

Nidhi Gupta, J.**CM No.10264-CII/2017**

Since there is delay of 10 days in re-filing the appeal,
aforesaid application has been filed seeking condonation of said delay.

For the reasons stated in the application, the same is allowed
and delay in re-filing the appeal is condoned.

CM No.10265-CII/2016

Prayer in this application u/o 41 Rule 27 r/w S. 151 CPC is
for leading additional evidence in the shape of disability certificate
Annexure A-1.

Despite notice, the said application, has remained
unopposed.

In view of the above, application is allowed and Disability
Certificate of the appellant is taken on record as Annexure A-1.

Main Case

Mr.Lalit Garg, Advocate appears on behalf of respondent no.4. Files memo of appearance, which is taken on record.

Present appeal has been filed by the injured-claimant seeking enhancement of compensation of Rs. 5,65,103/- granted by the Motor Accident Claims Tribunal, Sirsa (hereinafter referred to as 'the Tribunal') vide Award dated 28.3.2016 passed in Claim petition No.437/2013 filed u/s 166 of the Motor Vehicles Act,1988 (hereinafter referred to as 'the Act').

Ld. Tribunal on the basis of pleadings and evidence on record held that the injured-claimant suffered injuries in a motor vehicular accident that took place on 15.3.2011 due to rash and negligent driving of Car bearing registration No. PB-03-Z-1591 (hereinafter referred to as 'the offending vehicle') being driven by respondent no.1, owned by respondent no.2 and insured by respondent no.4. The Tribunal awarded compensation as above along with interest @ 8% per annum from the date of filing of the claim petition till realization. Liability to pay the compensation was joint and several.

It is submitted by the Id. Counsel for the appellant that the Id. Tribunal has awarded compensation without taking into account the disability suffered by the appellant in the accident in question. It is submitted that because of the injuries suffered by him in the accident in question, appellant has virtually turned into a person of unsound mind as he suffered grievous injuries on his head, as well as other parts of the body, which include haemorrhagic foci in inter-ventricular septum and left basal ganglia.

Further from the X-ray evidence of fracture is seen through the inter-

trochanteric region of right femur, and from the X-ray report of chest, fracture seen through the left scapula. As such, the appellant was operated upon by the Orthopaedic Surgeon as well as Neuro-Surgeon. It is also submitted that the injuries received by the appellant were very critical and he was even put on ventilator for a couple of days.

It is then submitted by Id. Counsel for the appellant that as per Disability Certificate (Annexure A-1), appellant has suffered permanent disability to the extent of 70%. It is submitted that the appellant could not tender the said Disability Certificate before the Id. Tribunal as his treatment was going on during the pendency of the claim petition. However, the appellant has now obtained the said disability certificate from the office of SMO, Incharge, Civil Hospital, Fazilka (CMO) after decision of his claim petition by the Id. Tribunal.

In view of the above submissions of the Id. Counsel for the appellant, both parties are ad idem that the matter requires to be remanded back to the Id. Tribunal for re-assessment of compensation in view of Disability Certificate Annexure A-1. Clearly, in view of the new evidence on record, the appellant will have to examine the Doctor concerned to prove the same, as also respondent-Insurance Company will have to cross-examine the said witness.

In view of the above agreed stand, present appeal is disposed of and the matter is remanded back to the Id. Tribunal to re-assess the compensation in accordance with law, keeping in view the evidence that will be led by the parties before it. Further, since the accident took place on 15.3.2011 it will be appreciated if the Id. Tribunal decides the present matter expeditiously, without any further delay, preferably within one year.

Disposed of, as above.

Pending application(s),if any, stand disposed of.

(Nidhi Gupta)
Judge

20.04.2023
Joshi

Whether speaking/reasoned	Yes
Whether reportable	Yes/No