112-1 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

XOBJC-109-2019 in/and
FAO-90-2019 (O&M)
Date of decision: 14.01.2025

UNITED INDIA INSURANCE COMPANY LTD. ...APPELLANT

VERSUS

AJMER SINGH AND ORS. ...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Ram Avtar, Advocate for the appellant.

Mr. Vikas Suri, Advocate with
Mr. Derpan Bansal, Advocate
for respondent No.1-Cross objectors in FAO-90-2019.

None for respondents No.2 and 3.

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SUVIR SEHGAL, J. (ORAL)

1. This order shall dispose of the above noted appeal filed by the Insurance Company as well as the cross-objections preferred by the claimant-respondent No.1. United India Insurance Co. is in appeal before this court assailing award dated 13.09.2018 passed by the Motor Accident Claims Tribunal (for short 'the Tribunal'), Rohtak whereby an amount of Rs. 8,43,000/- has been awarded as compensation to Ajmer Singh-respondent No.1 on account of injuries sustained by him in a vehicular accident, which took place on 04.04.2017.

2. Learned counsel for the appellant has argued that the appellant has erred in granting a huge amount of compensation along with interest despite the fact that the injured had suffered minor injuries. It is also his contention that the Tribunal has erroneously taken the monthly income at Rs. 11,700/- per month instead of Rs. 8,280.20/- which was the minimum wage for unskilled labour

fixed by the Govt. of Haryana. It is also his assertion that the claimant never appeared before the Tribunal as his witness and the claim petition has been accepted on the basis of the testimony of PW2-Sachin, who is the relative of the claimant. He submits that the fitness certificate of the offending vehicle was never brought on the record. It is his assertion that the offending vehicle was being driven in violation of the terms and conditions of the Insurance Policy.

3. Learned counsel for the claimant-respondent No.1, on the other hand urges that the claim was accepted on the basis of a disability certificate Ex P-86 which established that the injured suffered 40% permanent disability due to injuries sustained in the lower limb. By referring to a fresh disability certificate dated 02.05.2023 (Annexure A-1) issued by the AIIMS New Delhi, it is claimed that the disability of the claimant has increased to 100%. Counsel submits that as this disability certificate has been issued to the claimant during the pendency of the appeal, the same may be permitted to be brought on the record and compensation be reassessed.

4. I have heard counsel for the parties and considered their respective submissions, besides examining the record requisitioned from the Tribunal.

5. It cannot be disputed that the claimant never appeared in the witness box before the Tribunal and the claim has been accepted on the basis of the statement of his relative. The disability certificate relied upon by the claimant has been produced by a doctor. The disability of the claimant was certified at 40% and it appears to have increased to 100% as is reflected from the permanent disability certificate (Annexure A-1) which is now being sought to be produced by the claimant. It is apparent that some additional material has come in possession of the claimants which was not available when the impugned award was passed. Claimant did not produce any evidence regarding his income which

has been assessed by the Tribunal on the basis of the maximum wages for unskilled laborer notified by the Govt of Haryana by order dated 26.05.2017. Tribunal has not given any reason as to why the minimum wage notified by the Government cannot be the basis for determination of the income of the claimant. This Court is, therefore, of the view that the impugned award cannot be sustained and the matter deserves to be remitted to Tribunal for decision afresh.

6. Accordingly, impugned award dated 13.09.2018 in so far as claimant-Ajmer Singh is concerned is set aside and the matter is remitted to the Tribunal, for fresh determination in accordance with law. Parties are directed to appear before the Tribunal on **18.03.2025**. Liberty is also given to the parties to adduce any additional evidence upon which they intend to rely and the same shall be taken into consideration by the Tribunal while passing a fresh award.

7. Perusal of the paper book shows by interim orders 14.01.2019, Insurance Company was directed to deposit 30% of the assessed amount and it was observed that the same shall not be released to the claimant. In case the amount has been deposited by the Insurance Company, the same shall be kept in a fixed deposit and its disbursal would be dependent upon the outcome of the claim petition.

8. Appeal, cross objections and all pending applications are disposed of.

14.01.2025 **(SUVIR SEHGAL)**
renubala **JUDGE**

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