

(2020) 10 SHI CK 0398

In the High Court Of Himachal Pradesh

Case No : First Appeal From Order (MVA) No. 191 Of 2014, Cross Objections No. 1 Of 2015

Iffco Tokio General Insurance Company Limited

APPELLANT

Vs

Anil Kumar And Others

RESPONDENT

Date of Decision : 12-10-2020

Acts Referred:

Motor Vehicles Act, 1988 — Section 2(14), 166, 73

Citation : (2020) 10 SHI CK 0398

Hon'ble Judges : Sandeep Sharma, J

Bench : Single Bench

Advocate : Jagdish Thakur, Manoj Verma, Pratap Singh

Final Decision : Disposed Of

Judgement

Sandeep Sharma, J

1. By way of instant appeal filed under S.173 of the Motor Vehicles Act, challenge has been laid to Award dated 14.8.2013 passed by learned Motor Accident Claims Tribunal-I, Solan, District Solan, Himachal Pradesh, camp at Nalagarh in MAC Petition No. 10-S/2 of 2011, whereby learned Tribunal below, while allowing the claim petition filed under S.166 of the Act ibid by respondent No. 1 /claimant (hereinafter, 'claimant'), directed the appellant-Insurance Company to pay a sum of Rs.9,23,126/- alongwith interest at the rate of 7% per annum from the date of petition till the date of actual payment.

2. Facts, as emerge from record, are that the claimant filed a claim petition under S.166 of the Motor Vehicles Act before learned Tribunal below against respondents Nos. 2 and 3 and the appellant-Insurance Company, being owner, driver and insurer of the offending vehicle bearing registration No. HP-14A-0525, for compensation, on account of injuries suffered by him in the accident, that took place on 21.10.2009. As per the claimant, on 21.10.2009, he had gone to Delhi and while returning alongwith one Netar Singh, in the offending vehicle,

which was being driven by respondent No.3 in a rash and negligent manner, suffered injuries on account of accident, near Jhirbidi Border on GT Road, Kurukshetra. Claimant was injured and removed to the hospital and matter was also reported to the Police vide Rapat No. 52, dated 23.10.2009. Though, initially first aid was given to the claimant at LNJP Hospital, Kurukshetra but subsequently, he was referred to Government Medical College and Hospital, Sector 32, Chandigarh, where he remained admitted with effect from 22.10.2009 to 20.1.2010. Claimant, in the petition averred that he had not only sustained grievous injuries in the accident but had also suffered permanent disability and had to spend more than Rs.2,00,000/- on his treatment. Besides above, claimant claimed that he was compelled to spend more than Rs.10,000/- on hiring ambulance. For having sustained grievous injuries and disability of permanent nature, claimant filed claim petition, claiming therein compensation to the tune of Rs.30.00 Lakh on account of pecuniary and non-pecuniary losses. Claimant claimed before learned Tribunal below that before the alleged accident, he was earning Rs.30,000-35,000/- per month but now on account of permanent disability suffered by him, he is unable to do regular work and as such, he is entitled to compensation from the respondents.

3. Respondents Nos. 2 and 3, by way of reply, though admitted the factum with regard to accident but claimed that wrong rapat has been registered against respondent No.2. Aforesaid respondent though admitted that the claimant was admitted to LNJP Hospital on 21.10.2009 after the accident but denied that he incurred more than Rs.2,00,000/- on his treatment. Respondents, as referred to above, admitted that the claimant was traveling in the offending vehicle on the date of alleged accident but denied that the vehicle in question was being driven rashly and negligently by respondent No.3. Respondents claimed that a truck had struck their vehicle from behind with speed, on account of which respondent No.3 lost control over the vehicle and it struck against a tree on the side of road. Lastly, aforesaid respondents averred in their reply that since the vehicle is duly insured with appellant-Insurance Company, it is liable to indemnify the claimant as far as their liability to pay compensation, if any, to the claimant, on account of injuries suffered in the accident, is concerned.

4. Appellant-Insurance Company claimed that the offending vehicle had been registered and insured as a goods carrier vehicle and was not authorised/ permitted to carry passengers or goods of general public for hire or reward. Appellant-Insurance Company further averred that since the offending vehicle was being plied in violation of the terms and conditions of the insurance policy, it is not liable to discharge the liability, if any, of respondent No. 2 i.e. owner. Besides above, appellant-Insurance Company claimed that driver of the offending vehicle was not having a valid and effective driving licence to drive the vehicle, as such, it cannot be held liable to pay the compensation on behalf of respondents Nos. 2 and 3.

5. On the basis of aforesaid pleadings of the parties, learned Tribunal below

framed following issues on 19.6.2012:

"1. Whether the accident was result of rash and negligent driving of the offending vehicle in question by respondent No.2, and the petitioner sustained injuries in that accident? OPP

2. If issue No.1, is proved in affirmative, whether the petitioner is entitled to compensation? If so, to what amount and from whom? OPP

3. Whether the petition is not maintainable? OPR-3

4. Whether the driver of the offending vehicle in question was not having valid and effective driving licence. At the time of accident? If so, its effect?

5. Whether the offending vehicle did not have valid registration certificate, route permit and fitness certification at the time of accident? If so, its effect? OPR-3

6. Whether the vehicle in question was being plied in violation of terms and conditions of the insurance policy?

7. Relief."

6. Subsequently, on the basis of pleadings and evidence adduced on record by respective parties, learned Tribunal below allowed the claim petition and held the appellant-Insurance Company liable to pay the compensation to the claimant, being insurer of the offending vehicle. In the aforesaid background, appellant-Insurance Company has approached this Court in the instant proceedings, praying therein to set aside the award being excessive. Similarly, claimant has also filed cross-objection against the impugned award for enhancement of the amount of compensation.

7. I have heard the learned counsel for the parties and perused the material available on record.

8. Mr. Jagdish Thakur, Learned Counsel appearing for the appellant, while referring to impugned award passed by learned Tribunal below, strenuously argued that the same is not sustainable in the eyes of law being contrary to evidence on record, as such, same deserves to be quashed and set aside. Mr. Thakur contended that the learned Tribunal below has erred in answering issue No. 6 against the appellant-Insurance Company, because as per own statement of claimant, he had gone to Delhi in connection with his personal work and was coming back in the offending vehicle, which admittedly was a goods carrier, as is evident from Ext. R-2. Mr. Thakur further contended that Ext. RW-1/B, which is Registration Certificate of the vehicle in question, stands duly proved by the owner of the vehicle, which shows that the vehicle was a 'goods carriage. Mr. Thakur, referred to S.2(14) of the Act *ibid*, which provides that "a goods carriage means any motor vehicle constructed or adapted for use solely for the carriage of goods or any motor vehicle not so constructed or adapted when used for carriage of goods and not the passengers". Mr. Thakur further argued that if passengers are being carried in a 'goods carriage', in that eventuality, it is in violation of the

policy and such passengers are to be treated as unauthorized/gratuitous passengers. With a view to prove aforesaid argument Mr. Thakur made this court peruse the statement of PW-1, who in his cross-examination, admitted that he alongwith one another person had gone to Delhi in a bus and after completion of work, was coming back in the vehicle in question, as such, it can be safely concluded that at the time of accident, neither he was owner of the goods nor was representing owner of goods as such, he was traveling in the vehicle as a gratuitous passenger, as such, learned Tribunal below ought not have fastened liability to pay the compensation upon the appellant-Insurance Company. Mr. Thakur further contended that the learned Tribunal below has erred in taking monthly income of the claimant as Rs.7,000/-, because no evidence worth credence has been led on record by the claimant that he was earning aforesaid amount per month. Mr. Thakur submitted that in the year 2009, minimum wages were Rs.2700/- per month in the State of Himachal Pradesh but, it is not understood from where figure of Rs.7,000/- has crept in. Mr. Thakur further contended that since no evidence ever came to be led on record with regard to 40% permanent disability allegedly suffered by the claimant, learned Tribunal below has erred in presuming that earning capacity of the claimant has been reduced to the extent of 40%, as such, impugned award is liable to be quashed and set aside on this ground. Mr. Thakur further contended that the learned Tribunal below has erred in awarding Rs.1,82,000/- to the petitioner on account of having remained admitted as an indoor patient for 91 days, at the rate of Rs.2,000/- per day, especially when no person, who was employed as an attendant at the rate of Rs.2,000/- per day, ever came to be examined. Mr. Thakur also argued that the learned Tribunal below has erred in awarding Rs.44,926/- on account of medicines, other treatment, special diet and loss of amenities of life and Rs. 75,000/- on account of pain and suffering Lastly Mr. Thakur contended that learned Tribunal below has erred in awarding Rs.5,71,200/- under the head, loss of earning by taking income of the claimant as Rs.7,000/- per month. While referring to the statement of PW-1, Mr. Thakur contended that he has not uttered even a single word in this behalf and as such, learned Tribunal below without any reason has come to a conclusion, which is liable to be set aside.

9. On the other hand, Mr. Manoj Verma, learned counsel for the claimant, while supporting the award passed by learned Tribunal below contended that since it stands duly proved on record that the claimant suffered permanent disability to the extent of 40% on account of injuries suffered by him in the alleged accident, no fault, if any, could be found with the award passed by learned Tribunal below, rather it is on lower side. Mr. Verma, contended that the learned Tribunal below has failed to grant just compensation in favour of the claimant/cross-objector, as such, grave injustice has been caused to the claimant. He contended that the learned Tribunal below granted 7% interest on awarded amount, from the date of petition till actual realisation but no reason, whatsoever, has been assigned for not granting interest at the prevailing market rate i.e. 12%. He further

contended that since claimant, who was 27 years of age at the time of alleged accident, had become disabled for rest of his life on account of having suffered 40% permanent disability, learned Tribunal below ought to have granted just and reasonable compensation under the head, loss of amenities of life, but in the case at hand, learned Tribunal below has awarded meager amount of Rs. 50,000/- and as such, same needs to be enhanced. He also contended that the learned Tribunal below has not granted adequate compensation on account of pain, mental shock, harassment etc. to the claimant on account of injuries suffered by him in the alleged accident and as such a sum of Rs.50,000/- awarded under aforesaid head needs to be enhanced. Mr. Verma argued that learned Tribunal below erred in not awarding any compensation to the claimant on account of loss of income for the period he remained admitted in the hospital. He contended that the claimant is entitled to 100% loss of earning for minimum 91 days, period during which he remained admitted in the hospital. Lastly, Mr. Verma contended that the learned Tribunal below has erred by not considering monthly income of the claimant at the rate of Rs.30,000/- which stands duly substantiated by un rebutted testimony of PW-4 Onkar Singh.

10. Having heard learned counsel for the parties and perused grounds of appeal vis-à-vis reasoning assigned in the impugned award, this Court finds that primarily challenge in the appeal is on the quantum. Since there is no dispute inter se parties with regard to accident and injuries suffered by the claimant, in the alleged accident, there appears to be no occasion for this court to go into that aspect of the matter. Similarly, there is no dispute that the offending vehicle was insured with the appellant-Insurance Company.

11. Though, in the case at hand, Learned Counsel appearing for the appellant made a serious attempt to carve out a case that since the claimant was traveling as a gratuitous passenger in the offending vehicle, he is not entitled to compensation but no evidence to this effect ever came to be led on record and as such, learned Tribunal below, while deciding issues Nos.3 to 6 has rightly held that onus to prove these issues was on appellant-Insurance Company but they have failed to discharge said onus, as such, these issues have been rightly decided against the appellant-Insurance Company. Respondents Nos. 2 and 3 have placed on record documents Exts. R-1 to R-3, perusal whereof clearly suggests that the offending vehicle was a goods carrier and it was insured with the appellant-Insurance Company at the time of accident. Similarly, it stands duly proved on record that the driver of the offending vehicle was having a valid and effective driving licence..

12. Though, Learned Counsel appearing for the appellant, while referring to statement of PW-1 contended that since claimant himself stated in the cross-examination that he alongwith one another person had gone to Delhi in a bus and after completion of work, he was coming back in the offending vehicle, it cannot be concluded that he was traveling in the vehicle as owner of goods but said argument having been raised by Learned Counsel appearing for the

appellant is wholly misconceived because, it is not in dispute that at the time of alleged accident, claimant was traveling in vehicle as owner of goods and as such, award is not liable to be interfered with on aforesaid count. However, having taken note of the fact that the claimant failed to lead any cogent and convincing evidence that he was earning Rs.30-35,000/- per month at the time of alleged accident, this Court finds substantial force in the argument of Learned Counsel appearing for the appellant that in that situation court ought to have taken into consideration minimum wages payable to skilled workers at the relevant time. As per own claim of the claimant, he prior to alleged accident was earning his livelihood from agricultural pursuits. Admittedly, material placed on record clearly suggest that the claimant though claimed before learned Tribunal below that he was earning income of Rs.30,000-35,000/- per month from agricultural pursuits but, in this regard, no cogent and convincing evidence ever came to be led on record. PW-4 Omkar Singh, person from Delhi though deposed that the claimant used to sell flowers in the year 1996-97 till the date of accident, to the tune of Rs.50-60,000/- but in this regard, he did not place on record any authentic proof. Though, learned Tribunal below, having taken note of the fact that no authentic record has been produced by the claimant, resorted to formula of minimum wages but, it is not understood that on what basis, learned Tribunal below arrived at a conclusion that at the relevant time, minimum wages of skilled/unskilled worker were Rs.7,000/- per month. During argument, Mr. Thakur, Learned Counsel appearing for the appellant made available copy of Notification dated 31.12.2008, published in the official gazette to demonstrate that at the time of alleged accident, minimum wages payable to unskilled labour were Rs.3000/-per month.

13. Mr. Manoj Verma, learned Counsel appearing for the claimant was not able to dispute aforesaid Notification. Since at the time of accident, minimum wages of unskilled worker were Rs.3,000/- per month, learned Tribunal below erred in taking monthly income of the claimant as Rs.7,000/- in place of Rs.3,000/-, as such, impugned award is required to be interfered in this regard. Reliance is placed upon judgment rendered by Hon'ble Apex Court in Govind Yadav vs. New India Assurance Company Limited, 2012 (1) ACJ 28, wherein it has been held as under:

"17. A brief recapitulation of the facts shows that in the petition filed by him for award of compensation, the appellant had pleaded that at the time of accident he was working as Helper and was getting salary of Rs.4,000/- per month. The Tribunal discarded his claim on the premise that no evidence was produced by him to prove the factum of employment and payment of salary by the employer. The Tribunal then proceeded to determine the amount of compensation in lieu of loss of earning by assuming the appellant's income to be Rs.15,000/- per annum. On his part, the learned Single Judge of the High Court assumed that while working as a Cleaner, the appellant may have been earning Rs.2,000/- per month and accordingly assessed the compensation under the first head. Unfortunately, both the Tribunal and the High Court overlooked that at the

relevant time minimum wages payable to a worker were Rs.3,000/- per month. Therefore, in the absence of other cogent evidence, the Tribunal and the High Court should have determined the amount of compensation in lieu of loss of earning by taking the appellant's notional annual income as Rs.36,000/- and the loss of earning on account of 70% permanent disability as Rs.25,200/- per annum.

The application of multiplier of 17 by the Tribunal, which was approved by the High Court will have to be treated as erroneous in view of the judgment in *Sarla Verma v. Delhi Transport Corporation* (2009) 6 SCC 121. In para 42 of that judgment, the Court has indicated that if the age of the victim of an accident is 24 years, then the appropriate multiplier would be 18. By applying that multiplier, we hold that the compensation payable to the appellant in lieu of the loss of earning would be Rs.4,53,600/-.

14. Reliance is also placed upon judgment rendered by this Court in *Smt. Pappi Devi and others vs. Kali Ram and others*, Latest HLJ 2008 (Himachal Pradesh) 1440, wherein it has been held as under:

"6. It has come in the statement of claimant Smt. Kala Devi (PW-1) that the deceased, while working as a labourer and also selling milk was having an income of Rs.4000/- per month. Importantly, there is no cross-examination on this point at all. But the fact of the matter is that no documentary evidence has been placed on record to prove the income. This is the only evidence with regard to income of the deceased on record.

7. It has come on record that the deceased was illiterate and working as a labourer. In my view, his income determined by the Tribunal i.e. Rs.50/- per day, is on the lower side. Taking the deceased to be employed as a daily wager, the minimum wages paid by the government in the year 2001 to the labourers was more than Rs.70/- per day. This is not disputed at the Bar. Therefore, the same can be made the basis for determining the income of the deceased. Thus, the monthly income of the deceased is determined as $\text{Rs.70} \times 30 = \text{Rs.2100/-}$ and after deducing 1/3rd of the amount i.e. Rs.700/-, for the purpose of dependency is determined as Rs.1400/-."

15. As far as compensation under the head of loss of income, this court finds that it stands duly established on record that on account of permanent disability suffered by claimant in the alleged accident, he is unable to work in the fields. PW-1, Dr. J.L. Sharma, while proving disability certificate deposed on oath that on account of 40% disability, permanent in nature, suffered by the claimant, he cannot work in the fields. Cross-examination conducted upon this witness, if is perused in its entirety, it nowhere suggests that anything contrary, to what he stated in his examination-in-chief, could be elicited from the aforesaid witness.

16. If annual income of the claimant is assessed on the basis of minimum wages, prevalent in the year 2008, income of the claimant would be Rs.3,000/- per month and for the purpose of calculating loss of income as per disability i.e.

40%, same would come to Rs.1200/- per month and thus total loss of income would be $1200 \times 12 \times 17 = 2,44,800/-$.

17. Recently, Hon'ble Apex Court in *Kajal vs. Jagdish Chand & Ors.* Civil Appeal No. 735 of 2020, decided on 5.2.2020, has held the injured entitled not only to addition to income on account of future prospects but has also held that while awarding amount for future attendant charges, multiplier system should be used. Relevant paragraphs of the judgment (supra) are excerpted herein below:

"Loss of earnings

20. Both the courts below have held that since the girl was a young child of 12 years only notional income of Rs.15,000/ per annum can be taken into consideration. We do not think this is a proper way of assessing the future loss of income. This young girl after studying could have worked and would have earned much more than Rs.15,000/ per annum. Each case has to be decided on its own evidence but taking notional income to be Rs.15,000/ per annum is not at all justified. The appellant has placed before us material to show that the minimum wages payable to a skilled workman is Rs.4846/ per month. In our opinion this would be the minimum amount which she would have earned on becoming a major. Adding 40% for the future prospects, it works to be Rs.6784.40/ per month, i.e., 81,412.80 per annum. Applying the multiplier of 18 it works out to Rs.14,65,430.40, which is rounded off to Rs.14,66,000/

21. Though the claimant would have been entitled to separate attendant charges for the period during which she was hospitalised, we are refraining from awarding the same because we are going to award her attendant charges for life. At the same time, we are clearly of the view that the tortfeasor cannot take benefit of the gratuitous service rendered by the family members. When this small girl was taken to PGI, Chandigarh, or was in her village, 23 family members must have accompanied her. Even if we are not paying them the attendant charges they must be paid for loss of their wages and the amount they would have spent in hospital for food etc. These family members left their work in the village to attend to this little girl in the hospital at Karnal or Chandigarh. In the hospital the claimant would have had at least two attendants, and taking the cost of each at Rs.500/ per day for 51 days, we award her Rs.51,000/.

Attendant charges

22. The attendant charges have been awarded by the High Court @ Rs.2,500/ per month for 44 years, which works out to Rs.13,20,000/. Unfortunately, this system is not a proper system. Multiplier system is used to balance out various factors. When compensation is awarded in lump sum, various factors are taken into consideration. When compensation is paid in lump sum, this Court has always followed the multiplier system. The multiplier system should be followed not only for determining the compensation on account of loss of income but also for determining the attendant charges etc. This system was recognised by this Court in *Gobald Motor Service Ltd. v. R.M.K. Veluswami*⁹. The multiplier system

factors in the inflation rate, the rate of interest payable on the lump sum 9 AIR 1962 SC 1 award, the longevity of the claimant, and also other issues such as the uncertainties of life. Out of all the various alternative methods, the multiplier method has been recognised as the most realistic and reasonable method. It ensures better justice between the parties and thus results in award of 'just compensation' within the meaning of the Act.

23. It would be apposite at this stage to refer to the observation of Lord Reid in *Taylor v. O'Connor*:

"Damages to make good the loss of dependency over a period of years must be awarded as a lump sum and that sum is generally calculated by applying a multiplier to the amount of one year's dependency. That is a perfectly good method in the ordinary case but it conceals the fact that there are two quite separate matters involved, the present value of the series of future payments, and the discounting of that present value to allow for the fact that for one reason or another the person receiving the damages might never have enjoyed the whole of the benefit of the dependency. It is quite unnecessary in the ordinary case to deal with these matters separately. Judges and counsel have a wealth of experience which is an adequate guide to the selection of the multiplier and any expert evidence is rightly discouraged. But in a case where the facts are special, I think, that these matters must have separate consideration if even rough justice is to be done and expert evidence may be valuable or even almost essential. The special factor in the present case is the incidence of Income Tax and, it may be, surtax."

24. This Court has reaffirmed the multiplier method in various cases like *Municipal Corporation of Delhi v. Subhagwati* 10 1971 AC 115 and Ors., *U.P. State Road Transport Corporation and Ors. v. Trilok Chandra and Ors.*, *Sandeep Khanduja v. Atul Dande and Ors.* This Court has also recognised that Schedule II of the Act can be used as a guide for the multiplier to be applied in each case. Keeping the claimant's age in mind, the multiplier in this case should be 18 as opposed to 44 taken by the High Court.

25. Having held so, we are clearly of the view that the basic amount taken for determining attendant charges is very much on the lower side. We must remember that this little girl is severely suffering from incontinence meaning that she does not have control over her bodily functions like passing urine and faeces. As she grows older, she will not be able to handle her periods. She requires an attendant virtually 24 hours a day. She requires an attendant who though may not be medically trained but must be capable of handling a child who is bed ridden. She would require an attendant who would ensure that she does not suffer from bed sores. The claimant has placed before us a notification of the State of Haryana of the year 2010, 11 1966 ACJ 57 12 (1996) 4 SCC 362 13 (2017) 3 SCC 351 wherein the wages for skilled labourer is Rs.4846/ per month. We, therefore, assess the cost of one attendant at Rs.5,000/ and she will require two attendants which works out to Rs.10,000/ per month, which comes to

Rs.1,20,000/ per annum, and using the multiplier of 18 it works out to Rs.21,60,000/ for attendant charges for her entire life. This takes care of all the pecuniary damages.

18. Keeping in view the fact that on account of disability suffered by the claimant (40%), there would be loss of income to that extent, if we assume that the income would have increased on account of future prospects, the loss of income would also be increasing, as such, like in death case, where there is permanent loss of income, in the case of permanent disability, there is permanent loss of income, of course to the extent of disability, as such, in view of law laid down by Hon'ble Apex Court (supra), claimant is entitled to some amount on account of loss of future prospects. Since the claimant was not having a regular employment, as such, he is held entitled to 40% addition on account of loss of future prospects.

19. In view aforesaid, claimant is entitled to 40% increase on account of loss of future prospects, i.e. 40% of the total income and as such, total loss of income would be Rs.2,44,800/-(established income) +40% of the established income i.e. Rs.97920/- and thus total loss of income would be Rs.3,42,720/-.

20. It is not in dispute that the claimant remained admitted as an indoor patient for 91 days i.e. with effect from

22. 10.2009 to 20.1.2010, as such, he is required to be compensated for the expenses incurred by him on medical treatment including attendant charges. In the case at hand, learned Tribunal below has awarded attendant charges at the rate of Rs.2,000/- per day, which certainly appear to be on higher side, and as such, are required to be reduced to Rs.1,000/- per day. However, taking note of the fact that claimant suffered 40% disability on account of alleged accident, a sum of Rs.1,00,000/- is required to be awarded on account of special diet and loss of amenities of life as a lump sum compensation in place of Rs.50,000/- and Rs. 1,50,000/-on account of pain, suffering, trauma,, mental shock and discomfort.

21. In view of the discussions made supra and the law laid down by Hon'ble Apex Court in the afore-cited judgments, this Court deems it fit modify the impugned award to the following extent:

Head

Amount

Loss	of	income	to	the	extent	of	40%	disability
					342720			
Compensation			for		medical			treatment
					44926			
Compensation		on	account		of	being		indoor
					91000			

patient for 91 days including attendant charges

at the rate of Rs.1000 per month

Compensation on account of pain, suffering,
150000

trauma, mental shock and discomfort etc.

Lump sum compensation on account of special
100000

diet and loss of amenities of life

Total compensation
728646

22. Similarly, as per prevailing rate of interest, 7% per annum is adequate and same requires no interference.

23. Consequently, in view of detailed discussion made herein above and law laid down by the Hon'ble Apex Court, present appeal and cross-objections are disposed of and impugned award passed by learned Tribunal below is modified to aforesaid extent only. The apportionment shall remain as determined by learned Tribunal below in the impugned award.

Pending applications, if any, are also disposed of. Interim directions, if any, are vacated.