
(2016) 05 P&H CK 0031
In the Punjab And Haryana At Chandigarh
Case No : FAO No. 3664 of 2012

Vikas Goel

APPELLANT

Vs

Roshan Lal

RESPONDENT

Date of Decision : 30-05-2016

Acts Referred:

Citation : (2016) 05 P&H CK 0031

Hon'ble Judges : Darshan Singh, J.

Bench : Single Bench

Advocate : Mr. J.S. Cooner, Advocate, for the Appellant; Proceeded against ex parte, for the Respondents No. 1 & 2; Mr. Rajbir Singh for Mr. Sanjeev Goyal, Advocates, for the Respondent No.3-Insurance Company

Final Decision : Partly Allowed

Judgement

Darshan Singh, J.—The present appeal has been preferred by the appellant-claimant against the award dated 16.03.2012, passed by the learned Motor Accidents Claims Tribunal, Ambala (hereinafter called the "Tribunal") vide which the appellant-claimant has been awarded a sum of Rs.2,44,900/- as compensation on account of injuries suffered by him in the motor vehicular accident, which took place on 08.02.2010.

2. The present appeal has been preferred by the appellant claimant for enhancement of amount of compensation.

3. During the pendency of appeal, the appellant-claimant has also filed an application under Order 41 Rule 27 of Code of Civil Procedure, 1908 for producing the disability certificate dated 23.11.2012 in the additional evidence.

4. The Co-ordinate Bench vide order dated 13.01.2014 has allowed the said application and the disability certificate dated 23.11.2012 (Annexure A-1) was taken on record subject to all just expenses.

5. Learned counsel for the respondent-Insurance Company contended that the

disability certificate is not per se admissible document. The claimant has to lead the evidence to prove the said disability certificate and thereafter, the learned Tribunal has to reassess the amount of compensation. Learned counsel for the claimant has also not disputed the fact that the doctor who was the Member of the Medical Board has to be examined to prove the disability certificate and, thereafter, the learned Tribunal has to reassess the compensation.

6. The disability certificate dated 23.11.2012 was not available before the learned Tribunal at the time of passing the impugned award dated 16.03.2012 and has only been placed on record during the pendency of the present appeal. It is also not disputed that the disability certificate dated 23.11.2012 is not per se admissible document and has to be proved by the claimant by examining the doctor who was the Member of the Medical Board and, thereafter, the Tribunal has to reassess the compensation. Thus, in these circumstances the findings of the learned Tribunal on issue No.3 are hereby set aside and the present appeal is hereby partly allowed. The present case is remanded to the learned Tribunal with a direction to record the additional evidence of the claimants with respect to the disability certificate dated 23.11.2012 issued by the Medical Board of PGI MER, Chandigarh. The claimant shall produce the original disability certificate before the learned Tribunal at the time of his additional evidence. The learned Tribunal shall also afford opportunity to the respondent to lead evidence, if any, in rebuttal to the additional evidence of the claimant. Thereafter, the learned Tribunal will assess the amount of compensation afresh.

7. The parties shall appear before the learned Tribunal on 23.07.2016.