

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.497 of 1990 (O&M)
Date of Decision:14.01.2015

Gurdial Singh

....Appellant

Versus

Commissioner, Workmen's Compensation Act, Hisar and others

....Respondents

CORAM: HON'BLE MS. JUSTICE NAVITA SINGH

Present: Mr. Jitendra Sharma, Advocate for the appellant.

None for the respondents.

NAVITA SINGH, J.

1. Despite service, no one had appeared for the respondents and, therefore, only the appellant has been heard.

2. The appeal was filed against the order passed on 18.12.1989 by the Commissioner under the erstwhile Workmen's Compensation Act, whereby the claim preferred by the appellant was decided on the basis of settlement between the parties.

3. Respondent No.3 herein, who is son of respondent No.2, paid sum of Rs.8000/- to the appellant as per the statement made earlier in the proceedings. The amount was received by the appellant and he said that he would have no further claim after that. The Commissioner passed the order in view of the statements made before him and disposed of the claim petition.

4. Counsel for the appellant argued that the compensation accepted by the appellant at that point of time was grossly inadequate as he had lost fingers of his left hand in an accident during the course of his employment. The Commissioner failed to formulate the correct legal principles governing the matter. He referred to Section 17 of the Workmen's Compensation Act, which is

incorporated as such in the Employee's Compensation Act now, to support his arguments that the right relinquished by the appellant regarding compensation for personal injury was not the right thing to do as any such agreement made by the employee with the employer for such relinquishment or reduction of liability would be illegal, rather null and void. He also relied on Mohinder Singh Vs. Dial Singh, 1972 Current Law Journal 557. However, the judgment is delivered by Single Bench of this Court, which is not binding and even otherwise in that particular case, the employee/workman had relinquished the full compensation.

5. The grounds of appeal show that nothing was mentioned about Section 17 of the old or new Act and no reason was given as to what were the circumstances under which the appellant had entered into the compromise. There was nothing to show the existence of any kind of pressure.

6. Learned counsel for the appellant argued that the compromise being void in the eyes of law, the appellant should be awarded compensation according to the salary which he was receiving at that time, which was Rs.1000/- per month. Record, however, shows that no evidence was led by the appellant to prove his salary and it is stated by the counsel that the salary should be taken Rs.1000/- per month because the appellant said so. He had, however, no proof of the same. The mere oral assertion made now and a simple mention in the grounds of appeal would not be sufficient to show that the salary of the appellant was Rs.1000/- per month.

7. Another interesting aspect of the matter is that in the claim petition, the appellant had said that his salary was Rs.1100/- per month whereas before this Court, it was given as Rs.1000/- per month. The respondents denied the employment of the appellant.

8. The appellant is himself not sure about his salary and also without any proof, he cannot be believed on face value alone. Rather in view of the contradiction in the amount given in the claim petition and the grounds of appeal, it seems that the case of the appellant was standing on rickety legs.

9. The appeal is dismissed.

(NAVITA SINGH)
JUDGE

14.01.2015

Ishwar

Whether to be referred to reporter: No