

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.43 of 1993 (O&M)
Date of Decision:21.01.2015

Rohtash

....Appellant

Versus

Commissioner Workmen's Compensation Act, Hisar and another

....Respondents

CORAM: HON'BLE MS. JUSTICE NAVITA SINGH

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

None for respondent No.2.

NAVITA SINGH, J.

1. The appeal was filed by Rohtash, who was the claimant before the Commissioner under the Workmen's Compensation Act, Hisar, as his claim petition was dismissed.

2. The claim was preferred by the appellant stating that he was employed with respondent No.2 herein, as Carpenter at monthly salary of Rs.600/-. From January 1988 to October 1991, his salary was raised to Rs.1300/- per month gradually. On 13.2.1991, he was working in the premises of the employer, who assigned him the work of making a double bed. He told the appellant that the quality of work was very poor. He said that on account of poor workmanship, he was subjected to a loss of Rs.200/- and respondent No.2 became enraged and hit the appellant with a hammer. The appellant suffered a fracture and was unable to perform his duty for a long time and suffered a loss of Rs.1800/- per month. He also spent Rs.5000/- on his treatment.

3. The above facts are given in detail to show that the claimant had filed the petition for an injury which could not be said to have been suffered

during the course of employment. Simply because he was on duty, it would not mean that any kind of injury suffered by him for whatever reason would be taken to be an injury during the course of employment. Whatever transpired at that time was criminal assault on the part of the employer and for that the appellant should have reported the matter to the police.

4. Section 3 of the Workmen's Compensation Act provided that if personal injury was caused to a workman by 'accident' arisen out of and in the course of employment, the employer would be liable to pay compensation in accordance with the Act. In the instant case, the injury was not caused by accident and was rather intentional. The matter was thus not covered under the relevant provisions of law prevailing at that time and the petition was rightly dismissed by the Commissioner.

5. Though the appeal is being dismissed for different reasons, it may not be out of place to mention here that the last income of the appellant was given as Rs.13,00/-, though there was no proof. Yet he pleaded that he was subjected to monetary loss on account of salary to the tune of Rs.1800/- per month. The contradiction was not explained. Rather this showed that the claimant unnecessarily exaggerated the claim, though the same was otherwise rightly declined.

6. The Commissioner held that there was no relationship of master and servant between the parties but even if it be taken that there was such a relationship, the petition was not maintainable.

7. The appeal is dismissed.

(NAVITA SINGH)
JUDGE

21.01.2015

Ishwar

Whether to be referred to reporter: Yes