

THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 1981 of 2007 (O&M)
Date of decision : 04.02.2015

Dharminder Kumar

.....Appellant

Versus

Gurmeet Singh and others

...Respondents

CORAM: HON'BLE MS. JUSTICE ANITA CHAUDHRY

1. Whether Reporters of the local papers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest ?

Present: Mr. Vivek Aggarwal, Advocate
for the appellant

Mr. Navin Kapur, Advocate
for respondent No. 3

ANITA CHAUDHRY, J.

This appeal is by the claimant seeking enhancement in the award allowed to Dharminder Kumar a 12 years old boy who suffered disability to the extent of 20%.

The facts may now be noticed, a child of 12 years met with an accident in May 2005 and his right leg was crushed under the wheel of the truck resulting in amputation. The Tribunal had allowed a sum of ₹ 1,56,320/- for the injuries. It was submitted on behalf of the appellant that no amount was awarded for the attendant or for pain and suffering and notional income should have been taken and the multiplier method should have been used to work out the compensation. Reliance was placed upon ***Harbhagwant Singh vs.***

Haryana Roadways Rewari and others, 1993(2) CLJ (C, Cr. & Rev.) 97.

The submission on the other hand was that it was not a case of amputation and there was crush injury on the right leg and had it been a case of amputation, disability would have not been 20% but would have been higher. Learned counsel for the Insurance Company urged that since the record is not available but reading of para 18 of the award would clarify this position that the disability was on account of pain in the right leg and restricted movement of the right ankle.

The record of this case had been destroyed in a massive fire which took place in the High Court. However, counsel for the appellant has placed on record, the papers available with him. Both the sides state that the matter can be disposed of on the basis of material available.

A perusal of the finding recorded on issue No. 2 makes it amply clear that it was not a case of amputation. There was a crush injury on the right leg which lead to restricted movement of the right ankle. The child was just 12 years. Even if the notional income is taken at ₹ 15,000/- per annum and the functional disability is taken at 10% the amount calculated for the disability would be far less than what was awarded by the Tribunal, therefore, I would make no change in the compensation awarded on the head of disability.

The Tribunal had allowed ₹ 20,000/- for pain and suffering and ₹ 5,000/- for special diet, transportation and attendant expenses besides ₹ 56,319/- for actual medical expenses. Raising the total to

be ₹ 1,56,320/-. I would add ₹ 10,000/- for pain and suffering, ₹ 5,000/- for the attendant and ₹ 5,000/- as special diet, allowing an increase of ₹ 20,000/- The enhanced amount shall be paid by the Insurance company within two months failing which the appellant shall be entitled to interest @ 6% p.a. from the date of filing of the appeal till realization.

04.02.2015

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(ANITA CHAUDHRY)
JUDGE