

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.2828 of 2012 (O&M)
Date of Decision:22.01.2015

The Oriental Insurance Company Ltd.

....Appellant

Versus

Mahinder Kumar @ Mahinder Singh and another

....Respondents

CORAM: HON'BLE MS. JUSTICE NAVITA SINGH

Present: Mr. R.K. Bashamboo, Advocate for the appellant.

NAVITA SINGH, J.

1. The respondents are already ex parte and, therefore, only the appellant has been heard.
2. Counsel for the appellant argued that the Commissioner under the Workmen's Compensation Act did not adhere to the mode of calculation prescribed under the said Act and included the percentage of temporary disability while calculating the amount of compensation whereas only the extent of permanent disability was taken to be consideration. As per evidence, permanent disability of Mahinder Singh injured was to the extent of 26%. Regarding the other disability of 22%, the medical opinion was that it was temporary in nature and was curable with treatment, exercise and some surgery.
3. The contention on behalf of the appellant is acceptable and it is, therefore, ordered that the amount is to be calculated on the basis of 26% permanent disability, which will be Rs.1,22,965/- and not Rs.2,27,013/- as calculated by the Commissioner.

4. So far as the temporary disability is concerned, counsel for the appellant submitted that the relevant Act did not provide for any compensation for the same. However, it is felt in the interest of justice, that some amount can be granted to the appellant on that count because as per medical opinion he required treatment and may be surgery for that. It is, therefore, ordered that further amount of Rs.10,000/- will be payable to the injured i.e. respondent No.1 herein for that over and above, the amount calculated under the Act as above. The total compensation to which respondent No.1 would be entitled shall be Rs.1,32,965/- with interest at the same rate as already awarded by the Commissioner.

5. The appeal is disposed of in the above terms.

(NAVITA SINGH)
JUDGE

22.01.2015
Ishwar

Whether to be referred to reporter: No