

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.2156 of 2015

Date of Decision.08.04.2015

Reliance General Insurance Company LimitedPetitioner

Versus

Sumit Kumar @ Monu and anotherRespondents

Present: Mr. Raj Kumar Bashamboo, Advocate
for the appellant.

Mr. R.S. Mamli, Advocate
for the caveators.

CORAM:HON'BLE MR. JUSTICE K. KANNAN

1. Whether Reporters of 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?

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K. KANNAN J. (ORAL)

1. The insurance company is in appeal against an award of ₹ 18 lacs and odd for a person who has lost both his legs. He was a Cleaner in a transport company and the Court found, applying the decision of the Supreme Court in *Rajesh and others Vs. Rajbir Singh and others (2013) 9 SCC 54* that the provision for prospect of increase would also to be factored, applied multiplier of 18 suitable to the age and took the loss of earning capacity as 100% in terms of the doctor's assessment. It also provided the conventional heads for pain and suffering, for future medical expenses and assessed the compensation.

2. The counsel for the appellant would refer me to the evidence of the doctor who said that despite his amputation of both legs, the patient can also do some routine work with the help of prosthesis. The counsel would state that his income loss ought not to have been,

therefore, taken as 100%. Amputation of both legs are schedule injuries under the Workmen's Compensation Act and Schedule II of the Motor Vehicles Act also imports a manner of assessment of disability and the loss of earning capacity as provided under the Workmen's Compensation Act. The person who suffers 100% loss of earning capacity is not expected to die in hunger without doing any work. If he will, therefore, get some employment by use of prosthesis that cannot still deny to him a computation be made on the basis that his earning capacity was completely lost.

3. Learned counsel for the appellant would also argue that the income was stated to be only ₹ 3000/- but the Court has applied the minimum wages for Cleaner and has provided for further increase. If the claimant was actually receiving less than the minimum wages and the Tribunal was assessing the income of what he was bound to earn as a Cleaner, I will find that the Tribunal has adopted a fair approach to a just compensation and I will not take that to be a needlessly exaggerated amount as canvassed by the counsel for the insurance company.

4. The assessment to compensation by the Tribunal was perfectly justified and I find no cause for intervention. The appeal is dismissed.

(K. KANNAN)
JUDGE

April 08, 2015
Pankaj*