

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No.4000 of 2001(O&M)
Date of decision: 20.12.2016

Naunihal Singh

.....Appellant

versus

Union of India

.....Respondent

CORAM: Hon'ble Mr.Justice Kuldip Singh

Present: Mr.D.K.Khanna, Advocate for the appellant
Mr.Karminder Singh, Advocate for the respondent

1. *Whether Reporters of Local Newspapers may be allowed to see the judgment ? yes*
2. *To be referred to the Reporters or not ? yes*
3. *Whether the judgment should be reported in the Digest? yes*

Kuldip Singh, J. (Oral)

This is an appeal against the judgment dated 30.4.2001, passed by the Railway Claims Tribunal, Chandigarh Bench, Chandigarh (in short, 'the Tribunal'), vide which, claim application of the appellant was partly allowed and he was allowed compensation to the tune of Rs.1,70,000/- i.e. Rs.1,60,000/- for loss of the eye and Rs.10,000/- for the loss of the luggage alongwith interest.

Undisputed facts are that the appellant, being the bona fide passenger, was injured in a bomb blast that took place in platform no.2 on 21.6.1999 at New Jalpaiguri Railway Station while he was waiting at the platform to board Lohit Express train for onward journey to Ambala Cantt. Appellant was 61 years old at the time of the accident. He suffered injury on the face and his left eye was fully damaged. He lost his luggage. Tribunal

held that the loss of one eye is mentioned at serial no.23 of the scheduled appended to the Railway Accident and Untoward Incidents (Compensation) Rules, 1990 as amended by 1997 Rules, for which, compensation of Rs.1,60,000/- is provided. Therefore, the same was allowed to the appellant.

The short question arising for consideration of this Court is as to whether the given injury is of loss of one eye or it is disfigurement of face?

I have heard learned counsel for the parties and have also carefully gone through the file.

It is necessary to reproduce the medical evidence relied upon by the Tribunal:-

“Left eye ball is deformed with intra-ocular haemorrhage. A radioopaque foreign body seen in left infratemporal ossa with multiple fractures in lateral wall of left orbit, and medial displacement of lateral rectus. Tiny radioopaque foreign bodies seen in lateral aspect of left orbit and periobital soft tissues.

Right orbit is normal showing normal optic nerve and extra-ocular muscles. No sizeable focal lesion seen in intra or extra-conal compartments.

Left ethmoidal air cells are partially opaque.

Impression

Foreign body in left infratemporal fossa causing fractures in lateral wall of left orbit, proptosis and intra-ocular haemorrhage.

Tiny foreign bodies in left orbit and periobital soft tissues.”

The perusal of the injury shows that the left eye ball was completely deformed with intra-ocular haemorrhage. A radioopaque foreign body was seen in the left infratemporal ossa with multiple fractures

in lateral wall of left orbit. Admittedly under entry no.23 of the scheduled appended to the Railway Accident and Untoward Incidents (Compensation) Rules, 1990 as amended by 1997 Rules, a compensation of Rs.1,60,000/- is allowed where, there is a loss of one eye without complications of the other being normal. Appellant claims benefit of entry no.5, which is very severe facial disfigurement, for which, compensation of Rs.four lacs is allowed.

Now, this Court is to examine whether the above noted injury amounts to severe facial disfigurement or is mere loss of one eye.

Admittedly, eyes are part of the face. If any vital part of the face is permanently disfigured so as to make the look of a person ugly or uncomfortable, it falls within the definition of facial disfigurement. The left eye ball of the appellant was deformed. The deformity of one eye ball will disfigure the face and give uncomfortable look of the face. Therefore, in my view the above noted injury falls within the definition of severe facial disfigurement and is covered in entry no.5, for which compensation of Rs.four lacs is permissible.

Accordingly, appeal is allowed. The impugned order is modified to the extent that in place of Rs.1,60,000/- allowed by the Tribunal for loss of the eye, appellant is entitled to Rs.four lacs for severe facial disfigurement. The enhanced compensation be paid within three months from the date of receipt of a certified copy of this order along with interest @ 9% per annum from the date of filing of the claim application till payment.

20.12.2016
gk

(Kuldip Singh)
Judge

Whether speaking/ reasoned:
Whether Reportable:

Yes
Yes