

FAO No. 375 of 1993 (O&m)

1

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

344

FAO No. 375 of 1993 (O&m)

Date of Decision : 19.2.2018

GURDIP SINGH

....APPELLANT

VS

ESI CORPORATION AND OTHERS

....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr. Ashok Jindal, Advocate
for the appellant.

Mr. Vikas Suri, Senior Standing Counsel-ESI.

AJAY TEWARI, J.(Oral)

This appeal has been filed against the order of the E.S.I. Court, Bhatinda dismissing an application under Section 75(e) of the E.S.I. Act. The appellant was working as a carpenter with the P.R.T.C. claimed that he had become permanently disabled and applied for the permanent disablement benefit. The same having been rejected, the appellant is before this Court. The Court noticed that for proving his averment that he become permanent disabled, the appellant had examined PW-1 Dr. Kasturi Lal who was the doctor of E.S.I. dispensary who had first examined him and had diagnosed the case as prolapse Inter Vertebral Disc. He had advised him seven days rest and further had referred him to Civil Hospital, Bhatinda for opinion of Senior Medical Officer. He further deposed in his opinion that such like

FAO No. 375 of 1993 (O&m)

2

patients have to suffer through out their lives and their working capacity decreased and they become comparatively disabled. On behalf of the respondent, RW-1 has testified that a medical board held for assessing the loss of earning capacity which constituted the doctors of the Rajindera Hospital, Patiala who examined him on two occasions and on the basis of X-ray report and chemical examination they held that he was not suffering from any disablement. Learned counsel has argued that the Court erred in not accepting the testimony of the Dr. Kasturi Lal who was an employee of the respondent. In my considered opinion, this argument cannot be accepted. The Board which was constituted was an independent Board and doctors were from the Rajindera Hospital, Patiala. The opinion of the multi-body Board has rightly been accepted by the Court in place of opinion of the E.S.I. doctor particularly, since the appellant did not get himself examined from the SMO to whom the E.S.I. Doctor had referred his case.

The appeals stands dismissed.

Since the main case has been decided, the pending C.M, if any, also stand disposed of.

19.2.2018
anuradha

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned	-	Yes/No
Whether reportable	-	Yes/No