

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

-.-

FAO 1563 of 2002 (O&M)
Date of decision: 26.02.2019

Vimal Kumar

.....Appellant

versus

Darshan Kumar and others

.....Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present : Mr. Rajbir Singh, Advocate
for the appellant

Mr. Neeraj Khanna, Advocate
for respondent No. 3

Mr. P S Walia, Advocate for
Mr. Karminder Singh, Advocate
for respondent No. 4

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Rekha Mittal, J. (Oral)

Vimal Kumar, the victim is in appeal seeking enhancement of compensation on account of injuries sustained in an occurrence that took place on 08.08.1998.

The Tribunal has awarded Rs.40,000.00, detailed hereunder:-

-Medical expenses including special diet and transportation	Rs.25,000.00
-Pain and suffering and loss of amenities	Rs.15,000.00

Counsel for the appellant would argue that on account of sustaining injuries, the victim has been rendered disable permanently to the tune of 5% as per disability certificate dated 31.01.2001, issued by the Medical Board constituted under the Chairmanship of Civil Surgeon,

Panchkula. It is further argued that claimant has filed an application for additional evidence to produce disability certificate aforesaid. In addition, it is argued that due to sustaining injuries, the minor could not clear his 10+2 examination and as such, he lost one precious year of his career.

Counsel representing the respondents, on the contrary, has supported assessment made by the Tribunal with the submissions that disability certificate has not been proved in accordance with law. It is further argued that there is no cogent evidence on record if the claimant had failed in 10+2 examination due to sustaining injuries particularly in the circumstances that he was hospitalised only for a period of five days.

Be that as it may, application for additional evidence has been filed to produce on record disability certificate dated 31.01.2001 issued by the Medical Board constituted under the Chairmanship of Civil Surgeon, Panchkula. As per disability certificate, the victim has suffered two years old operated c/o BB forearm (R) United in good position with complain off and on pain and scarring and his physical disability is 5% per cent.

Taking into consideration disability certificate issued by the Medical Board, the claimant is awarded Rs.10,000.00 i.e. Rs.2,000/- per cent for disability suffered by him. So far as plea of claimant for grant of compensation on account of his failure to clear 10+2 examination, there is no clear evidence on record as to for how many days, the victim could not attend to his classes on account of sustaining injuries. There is also no evidence on record what was academic record of the victim prior to occurrence in order to attribute failure to clear examination to injuries sustained in the occurrence. That being so, contention of the claimant for

allowing compensation on account of loss of one year of educational career is not substantiated.

No other point has been raised.

For the foregoing reasons, the appeal is partly allowed. The claimant is awarded additional amount of Rs.10,000.00 payable with interest at the rate of 7.5% per annum from the date of petition till realisation.

(Rekha Mittal)
Judge

26.02.2019
mohan bimbura

Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No