

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

114

CR-2021-2020

Date of Decision: 10.07.2020

Suga Ram Yogi

... Petitioner

Vs.

Sita Ram and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present:- Mr.P.S. Chauhan, Advocate
for the petitioner.

Amol Rattan Singh, J (Oral)

All cases listed today have been taken up for hearing by way of video conferencing because of the situation existing due to the Covid-19 pandemic.

By this petition, the petitioner challenges the order passed by the learned Motor Accidents Claims Tribunal, Rewari, dated 07.02.2020, by which his application has been dismissed, seeking that his disability be assessed by a Medical Board, even though he has no copy of any MLR recorded at the time when he is alleged to have sustained the injury.

The Tribunal has rejected the application on the ground that the disability cannot be assessed without an MLR, as per rules. However, no such rule has actually been referred to by the Tribunal.

Learned counsel for the petitioner submits that as a matter of

fact, there is no such rule existent that a disability cannot be assessed without a medico-legal report, and consequently the Medical Board should not have disregarded the order earlier passed by the Tribunal on 07.01.2020, by which in fact at that stage, the application filed by the petitioner for assessment of his disability had been allowed. (In that application it had not been stated that the disability be assessed without an MLR).

Having considered the matter, I see no reason to disallow this petition, even without issuing notice of motion to the respondents, but of course with liberty to be granted to them, as also to the Civil Surgeon, Rewari, to file an appropriate application if they are aggrieved of the order being passed by this Court, in any manner.

Consequently, this petition is being allowed, for the reason that the petitioner is seeking simply an assessment of the disability that exists with him today (if any), with it alleged that his arm has been amputated.

Naturally, this Court is not making any observation, whatsoever, as to when the arm was amputated or whether anybody from the respondents before the Tribunal was responsible for such amputation or not.

That would be a matter to be considered by the Tribunal wholly on the merits of the claim petition filed before it, and therefore, at this stage, simply to determine the disability of the petitioner as it exists today (if any), this petition is allowed with a direction to Civil Surgeon, Rewari, to constitute a Medical Board which would opine as to the disability existent with the petitioner, as of the day that he presents himself to the Board.

Upon that certificate being issued by the Board constituted by the Civil Surgeon, the petitioner would be at liberty to place it on record

before the learned Tribunal, simply for that purpose only, i.e. the extent of his disability.

It is again made absolutely clear that no observation or direction issued by this Court today will be taken by the Tribunal to be any comment whatsoever on how the petitioner sustained that disability, and whether or not the respondents in the claim petition are in any manner liable to compensate him on that account.

Naturally, that would be an issue to be wholly decided by the Tribunal as per the evidence led before it.

To again repeat, since the petition has been allowed without issuing notice of motion, if the respondents or the learned Civil Surgeon, Rewari, are aggrieved by this order in any manner, they would be at liberty to file an application seeking a modification thereof, which of course would be considered wholly on its merits, if it is filed.

The Board would be constituted by the Civil Surgeon, Rewari, with the disability (if any) to be assessed, before July 21, 2020, which is stated to be the next date of hearing before the Tribunal.

However, if it is not possible to immediately constitute the Medical Board due to the ongoing pandemic, the Civil Surgeon would pass an order to that effect, and direct that it would be constituted as and when it is safe to do so, giving in that order and appropriate date for the Board to assemble. If, on that date too, the situation has not changed qua the pandemic, another appropriate date would be given at that stage.

If such an order (delaying the date of assessment of the disability), is passed by the learned Civil Surgeon, Rewari, the Tribunal

would not finalise the proceedings in the claim petition before it, till the Medical Board is constituted and the report of the Board has been received.

(AMOL RATTAN SINGH)
JUDGE

10.07.2020
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No