

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
115 RA-CR No.78 of 2023 in
FAO-906-2005 (O&M)

Date of decision: 12.05.2023

Sumeet Singh Kohli
Vs.
Sukhdev Singh & Others
...Appellant(s)
...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. R.C. Kapoor, Advocate
for applicant/respondent No.3.

NIDHI GUPTA, J.

Present Review Application has been filed by
respondent No.3/Insurance Company under Order 47 Rule 1 read with
Section 114 CPC and with Section 151 CPC seeking review of order dated
09.03.2023 passed by this Court in FAO-906 of 2005.

2. Review of the aforesaid order is sought on the ground
that though in para 8(e) of order dated 09.03.2023, this Court has
assessed functional disability of the injured-claimant as 37.5% yet, while
calculating future loss of income multiplier method has been applied
and functional disability of the injured-claimant has been taken as 100%.

3. It is further submitted that this Court in said para 8(e)
has observed that Rs.20,000/- awarded by learned Tribunal on account
of disability is on lower side and therefore, said amount has been
enhanced to Rs.50,000/-. However, in the table where compensation has
been re-calculated, the said amount on account of disability has been
mentioned as Rs.1,50,000/-.

4. No other argument is raised on behalf of applicant/respondent No.3/Insurance Company.

5. I have heard learned counsel for the applicant/respondent No.3/Insurance Company.

6. Perusal of order under review shows that no doubt in para 8(e) of order dated 09.03.2023 it has been mentioned as follows:-

“Moreover, it is undisputedly on record that the appellant has suffered permanent disability to the extent of 75% and functional disability of 37.5%. In these circumstances, I find the amount of Rs.20,000/- awarded by learned Tribunal on account of permanent disability to be very low. Said amount is enhanced to Rs.50,000/-. Amount of Rs.13,000/- granted under the head of pain & suffering is also increased to Rs.50,000/-.”

7. However, a complete reading of judgment shows that the unequivocal intent of this Court was to take 75% permanent disability suffered by the appellant as 100% functional disability. If argument of the applicant/respondent No.3 is accepted then amount of Rs.75,000/- (@ Rs.2,000/- x 37.5%) would have been granted towards disability. However, an amount of Rs.1,50,000/- @ Rs.2,000/- x 75% has been granted on account of permanent disability. The fact that para 8(e) mentions only Rs.50,000/- on account of disability is clearly therefore, a typographical error. A complete reading of the entire judgment shows that para 8(e) cannot be read in isolation and the purported ambiguities contained therein are only typographical as the intent of this Court is clear from the calculation made in the table.

8. There is no dispute that the appellant has suffered 75% permanent disability as a result of which his right leg has shortened by 2 inches, and he cannot walk without crutches, and his right leg cannot bear any weight at all. It has been deposed by PW11-Dr. Harpreet Singh (inadvertently incorrectly mentioned as PW5 in the order dated 09.03.2023) that permanent disability of the appellant would remain for his entire life even after full curing and treatment, and that the appellant will not be able to bend his right leg at all.

9. In this view of the matter, it is again clarified/reiterated that any ambiguity contained in para 8(e) of the judgment dated 09.03.2023 is due to typographical error, and that it was the clear and unequivocal intent of this Court to take the permanent disability of the appellant as 75%, and functional disability as 100%. It is for this reason that the appellant has been awarded a sum of Rs.1,50,000/- on account of disability. A perusal of the table shows that it has been clearly mentioned therein that sum of Rs.1,50,000/- has been awarded on account of disability @ Rs.2,000/- per percent of disability. Only the numeral 1 is missing in para 8(e).

10. Accordingly, I find no merit in this Review Application and the same is hereby **dismissed**.

11. Pending application(s) if any also stand(s) disposed of.

12.05.2023
Sunena

(Nidhi Gupta)
Judge

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