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Dolly Varshney Vs. Director General Health Services

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Court : Delhi

Decided On : Mar-22-1991

Reported in : 44(1991)DLT275

Judge : P.N. Nag, J.

Acts : Constitution of India - Article 226

Appeal No. : Civil Writ Petition No. 4114 of 1990 and Civil Miscellaneous Appeal No. 8869 of 1991

Appellant : Dolly Varshney

Respondent : Director General Health Services

Advocate for Pet/Ap. : M.C. Dhingra,; Rajeev Sharma and; P.K. Bahl, Advs

Judgement :

P.N. Nag, J.

(1) The petitioner has filed a writ petition, being C W 4114 of 1990, seeking a writ of mandamus to allocate a seat in any one of the Medical Colleges in Delhi/New Delhi or in the King George Medical Collect Lucknow and in this writ petition the petitioner has filed the present application, Cm 869/91, whereby it has been prayed that the petitioner should be allowed provisional admission in the vacant seat reserved in Medical College medicines or any other expense. Already a sum

of Rs. 500.00 on account of expenses and Rs. 3,000.00 by way of general damages had been awarded in favor of the appellant. The photograph proved by the father as PW5 during proceedings in the claim petition of the child, which I have perused on the case record, does not show any disfigurement or the face or any other permanent facial injury.

(2) Learned counsel for respondent No. 4 rightly argued that the teeth were milk teeth. At the time of accident, the age of the child was 5' years and in the normal course he would have got the teeth.

(3) The Court directed the counsel for the appellant to produce him in Court to satisfy as to whether there was any permanent scar or effect of the injuries left but inspire of time being taken, firstly of one month, then five days and then yesterday, the appellant has not been produced. In view of this, an adverse inference can be drawn against the appellant that there is nothing to show by way of permanent facial defect or injury or even scar.

(4) For all these reasons. I do not think that there is any case for entertaining the appeal for enhancement of the compensation when the appellant could not be produced in Court inspire of directions given by the Court.

(5) The appellant has not prosecuted the appeal diligently because according to Ms. Deep Mala, the appellant was not found available at the address given and he had not intimated his change of address.

(6) For all these reasons I do not find any merit in this appeal. The same is accordingly dismissed.

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