



FAO-5659-2024 (O&M)

1

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH**FAO-5659-2024 (O&M)****Date of decision : 14.5.2025**

M/s Hi Tech Automation

... Appellant

VERSUS

Mulakraj

... Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAINPresent: Mr. Abhishek Sethi, Advocate,
for the appellant.

PANKAJ JAIN, J. (Oral)**CM-21620-CII-2024**

For the reasons mentioned in the application, the same is allowed and delay of 380 days in filing the appeal is condoned.

Main case

Challenge is to the order dated 11.9.2023 passed by Commissioner under Employees Compensation Act, Circle-III, Faridabad exercising the powers under Employees' Compensation Act, 1923 whereby the claim of injured employee whose 4 fingers of left hand stand amputated, has been granted compensation of ₹ 2,64,336/-.

2. Counsel for the appellant has assailed the order passed by the Commissioner referred to Sections 53, 61 and 68 of the Employee's State Insurance Act, 1948 (in short, "1948 Act"). Learned counsel submits that Section 53 of the 1948 Act raises bar against an insured person and his dependants from receiving or recovering from any other person any



compensation or damages under Workmen's Compensation Act, 1943 (now called as Employees' Compensation Act). He refers to Section 61 of the Act to submit that the provisions bars operation of any enactment qua the person entitled to any of the benefits provided by 1948 Act. He further submits that the entitlement of the employee was at the most to claim benefits of employment injury as defined in Section 2(8) of 1948 Act. He, thus, submits that the employer ought to have been proceeded against under Section 68 of 1948 Act. In order to hammer forth his contentions, he relies on the ratio of law laid down by Supreme Court in the case of **A. Trehan v. M/s Associates Electrical Agencies 1996 AIR Supreme Court 1990** and that of Kerala High Court in **the Manager, Galaxy Security Services v. E.M. Moly W/o Late Balakrishnan and other.**

3. I have heard the counsel for the appellant and have carefully gone through the record of the case.

4. In order to appreciate the contentions raised by the counsel for the appellant, it will be apt to peruse bare provisions of law which reads as under : -

"Section 28. Registration of agreements.— —

(1)Where the amount of any lump sum payable as compensation has been settled by agreement whether by way of redemption of a half-monthly payment or otherwise, or where any compensation has been so settled as being payable to a woman, or a person under a legal disability a memorandum thereof shall be sent by the employer to the Commissioner, who shall, on being satisfied as to its genuineness, record the memorandum in a register in the prescribed manner:Provided that—(a)no such memorandum shall be recorded before seven days after communication by the Commissioner of notice to the parties



concerned;***[\(c\)](#)the Commissioner may at any time rectify the register; [\(d\)](#)where it appears to the Commissioner that an agreement as to the payment of a lump sum whether by way of redemption of a half-monthly payment or otherwise, or an agreement as to the amount of compensation payable, to a woman or a person under a legal disability ought not to be registered by reason of the inadequacy of the sum or amount, or by reason of the agreement having been obtained by fraud or undue influence or other improper means, he may refuse to record the memorandum of the agreement and may make such order, including an order as to any sum already paid under the agreement, as he thinks just in the circumstances. [\(2\)](#)An agreement for the payment of compensation which has been registered under sub-section (1) shall be enforceable under this Act notwithstanding anything contained in the Indian Contract Act, 1872 (9 of 1872), or in any other law for the time being in force.

Section 53. Bar against receiving or recovery of compensation or damages under any other law.

An insured person or his dependents shall not be entitled to receive or recover, whether from the employer of the insured person or from any other person, any compensation or damages under the Workmen's Compensation Act, 1923 (8 of 1923), or any other law for the time being in force or otherwise, in respect of an employment injury sustained by the insured person as an employee under this Act.

Section 61. Bar of benefits under other enactments.

When a person is entitled to any of the benefits provided by this Act, he shall not be entitled to receive any similar benefit admissible under the provisions of any other enactment."

5. Section 53 of the 1948 Act raises bar against an employee from receiving or recovering any compensation or damages under any other law including Employees' Compensation Act, 1923. The expression used is, 'insured person'. The insured person is defined under Section 2(14) of the Act which reads as under : -



“Section 2(14) “insured person” means a person who is or was an employee in respect of whom contributions are or were payable under this Act and who is by reason thereof, entitled to any of the benefits provided by this Act;”

6. Admittedly, the claimant in the present case is not an insured person. Thus, there is no such bar as claimed by the counsel for the appellant against employee from recovering any compensation or damages under any other law.

7. So far as the plea raised on the basis of Section 61 of the Act is concerned, same is also misconceived. The expression used in Section 61 is ‘a person entitled to any of the benefits provided under the Act’. A fortiori the person entitled for receiving any benefit has to be first insured under the 1948 Act only then he can be said to be a person entitled to any of the benefits provided under the 1948 Act. So far as the reliance placed upon ratio of law laid down in **A. Trehan’s case** (supra) is concerned, the same is also misplaced and misconceived. Para. 3 of the judgment would reveal that it was a case of employee who was insured person under 1948 Act.

8. Finding no merit in the present appeal, the same is ordered to be dismissed.

**(PANKAJ JAIN)
JUDGE**

May 14, 2025
Paritosh Kumar

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