



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

210

FAO-118-1998

Date of decision : 08.01.2025

The General Manager, Haryana Roadways

..... Appellant

versus

Gurbachan Singh

..... Respondent

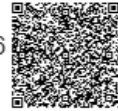
CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Ms. Vibha Tewari, AAG, Haryana.

Mr. N.K. Nagar, Advocate
for the respondent.

PANKAJ JAIN, J. (Oral)

1. State is in appeal aggrieved of the order dated 12.05.1997 passed by Commissioner, Ropar under Workmen's Compensation Act.
2. Claimant filed application seeking compensation on account of injuries suffered by him during the course of accident dated 01.06.1992 involving bus driven by him. The claimant received injuries leading to amputation of his right leg and there was a fracture in his left leg. Commissioner allowed the application filed by the claimant awarding him compensation to the tune of Rs.1,53,712/- treating his disability to the extent of 80%.
3. Ms. Tewari appearing for the State submits that since the claim petition filed by the claimant seeking compensation under Motor Vehicles Act was dismissed by MACT holding him negligent, the instant application filed seeking compensation under the Workmen's Compensation Act ought to have been dismissed and not entertained.



4. *Per contra*, counsel for the respondent-claimant submits that since it is not disputed that the claimant suffered injuries and was rendered permanently disabled owing to an accident in the course of employment, multiplier has been applied as per law to pay compensation. Mere fact that the MACT held him negligent would not be a factor to disentitle him to grant compensation under the Employee's Compensation Act, 1923.

5. I have heard counsel for the parties and have carefully gone through the records of the case.

6. Employer's liability for compensation under 1923 Act is covered by Section 3 of the Act which reads as under:-

3. Employer's liability for compensation.—

(1) If personal injury is caused to an employee by accident arising out of and in the course of his employment, his employer shall be liable to pay compensation in accordance with the provisions of this Chapter:

Provided that the employer shall not be so liable

(a) in respect of any injury which does not result in the total or partial disablement of the employee for a period exceeding three days;

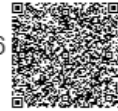
(b) in respect of any injury, not resulting in death or permanent total disablement caused by an accident which is directly attributable to

(i) the employee having been at the time thereof under the influence of drink or drugs, or

(ii) the wilful disobedience of the employee to an order expressly given, or to a rule expressly framed, for the purpose of securing the safety of employees, or

(iii) the wilful removal or disregard by the employee of any safety guard or other device which he knew to have been provided for the purpose of securing the safety of employee.

(2) If an employee employed in any employment specified in Part A of Schedule III contracts any disease specified



therein as an occupational disease peculiar to that employment, or if an employee, whilst in the service of an employer in whose service he has been employed for a continuous period of not less than six months (which period shall not include a period of service under any other employer in the same kind of employment) in any employment specified in Part B of Schedule III, contracts any disease specified therein as an occupational disease peculiar to that employment, or if an employee whilst in the service of one or more employers in any employment specified in Part C of Schedule III for such continuous period as the Central Government may specify in respect of each such employment, contracts any disease specified therein as an occupational disease peculiar to that employment, the contracting of the disease shall be deemed to be an injury by accident within the meaning of this section and, unless the contrary is proved, the accident shall be deemed to have arisen out of, and in the course of, the employment:

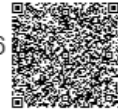
Provided that if it is proved,

(a) that an employee whilst in the service of one or more employers in any employment specified in Part C of Schedule III has contracted a disease specified therein as an occupational disease peculiar to that employment during a continuous period which is less than the period specified under this sub-section for that employment; and

(b) that the disease has arisen out of and in the course of the employment,

the contracting of such disease shall be deemed to be an injury by accident within the meaning of this section:

Provided further that if it is proved that an employee who having served under any employer in any employment specified in Part B of Schedule III or who having served under one or more employers in any employment specified in Part C of that Schedule, for a continuous period specified under this sub-section for that employment and he has after the cessation of such service contracted any disease specified in the said Part B or the said Part C, as the case may be, as an occupational disease peculiar to the employment and that such disease arose out of the employment, the contracting of the disease shall be deemed to be an injury by accident within the



meaning of this section.

(2A) If an employee employed in any employment specified in Part C of Schedule III contracts any occupational disease peculiar to that employment, the contracting whereof is deemed to be an injury by accident within the meaning of this section, and such employment was under more than one employer, all such employers shall be liable for the payment of the compensation in such proportion as the Commissioner may, in the circumstances, deem just.

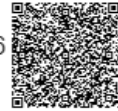
(3). The Central Government or the State Government, after giving, by notification in the Official Gazette, not less than three months' notice of its intention so to do, may, by a like notification, add any description of employment to the employments specified in Schedule III and shall specify in the case of employments so added the diseases which shall be deemed for the purposes of this section to be occupational diseases peculiar to those employments respectively, and thereupon the provisions of sub-section (2) shall apply, in the case of a notification by the Central Government, within the territories to which this Act extends or, in case of a notification by the State Government, within the State as if such diseases had been declared by this Act to be occupational diseases peculiar to those employments.

(4) Save as provided by sub-sections (2), (2A) and (3) no compensation shall be payable to an employee in respect of any disease unless the disease is directly attributable to a specific injury by accident arising out of and in the course of his employment.

(5) Nothing herein contained shall be deemed to confer any right to compensation on an employee in respect of any injury if he has instituted in a Civil Court a suit for damages in respect of the injury against the employer or any other person; and no suit for damages shall be maintainable by an employee in any Court of law in respect of any injury

(a) if he has instituted a claim to compensation in respect of the injury before a Commissioner; or

(b) if an agreement has been come to between the employee and his employer providing for the payment of compensation in respect of the injury in accordance with the provisions of this Act.”



7. Proviso appended to Section 3(1) contemplates the situations wherein the employer shall not be liable to pay compensation. Counsel for the appellant is not in a position to dispute that the case being pleaded by her would not fall in any of the situations as contemplated under proviso.

8. In view thereof, this Court does not find any reason to interfere in the order passed by the Commissioner, as the appeal is totally bereft of any substantial question of law which is mandatory to entertain the present appeal in terms of Section 30 of the 1923 Act.

9. Finding no merits in the present appeal, the same is ordered to be dismissed.

(PANKAJ JAIN)
JUDGE

08.01.2025
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Whether speaking/reasoned : Yes

Whether Reportable : No