



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

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**FAO-380-2021 (O&M)  
Date of decision : 18.08.2025**

**Iffco Tokoi General Insurance Company Ltd. .... Appellant**

**versus**

**Asgar and another ..... Respondents**

**CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN**

Present: Mr. Yogesh Gupta, Advocate  
for the appellant.

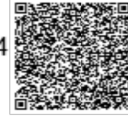
Mr. Ashish Gupta, Advocate  
for respondent No.1.

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**PANKAJ JAIN, J. (Oral)**

1. Challenge is to the order dated 24.02.2021 passed by Commissioner Circle-6, Gurugram under Employees' Compensation Act, 1923 whereby the claimant has been awarded compensation of Rs.11,51,887/- for having suffered injuries in an accident arising out of and during the course of employment.

2. Claimant was working as a cleaner on the vehicle No.NL-01-AC-4728. On 17.06.2019, the vehicle met with an accident. Claimant suffered serious injuries. Both of his legs were fractured. FIR with respect to the accident was registered. The claimant remained hospitalized for more than 13 days. As per the medical opinion, he has suffered permanent disability to the extent of 51%. The injuries as well as the disability certificate was proved by PW-3 Dr. Pankaj Aggarwal. The Commissioner after appreciating the evidence on record, has taken



into consideration the functional disability of the claimant to be 100% and accordingly granted him compensation of Rs.11,55,887/-.

3. Counsel for the insurance company has assailed the order passed by the Commissioner raising two fold plea. It has been contended that the Commissioner erred in taking the functional disability of the claimant as 100% despite there being evidence to the effect that permanent disability suffered by the claimant was only 51%. He further refers to the medico legal report wherein doctor suspected that the claimant was under the influence of liquor.

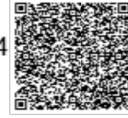
4. So far as second plea is concerned, counsel for the appellant does not dispute that it was merely a suspicion raised by the doctor. There is no evidence to suggest that the claimant was under the influence of liquor at the time he met with the accident. Apart from above, the claimant was only working as cleaner and thus he even if was under influence of liquor, cannot be held to be negligent and the contributor to the accident of vehicle. He was travelling in the vehicle not driving it.

5. So far as other plea is concerned, the issue is no more *res integra* and has been fully answered by Supreme Court in the case of ***Pratap Narain Singh Deo vs. Srinivas Sabata (1976) 1 SCC 289*** observing as under:-

“5. The expression "total disablement" has been defined in section 2(1)(l) of the Act as follows:

" "total disablement" means such disablement, whether of a temporary or permanent nature, as incapacitates a workman for all work which he was capable of performing at the time of the accident resulting in such disablement."

It has not been disputed before us that the injury was of such a nature as to cause permanent disablement to the respondent,



and the question for consideration is whether the disablement incapacitated the respondent for all work which he was capable of performing at the time of the accident. The Commissioner has examined the question and recorded his finding as follows:

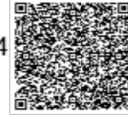
"The injured workman in this case is carpenter by profession....By loss of the left hand above the elbow, he has evidently been rendered unfit for the work of carpenter as the work of carpentry cannot be done by one hand only."

This is obviously a reasonable and correct finding. Counsel for the appellant has not been able to assail it on any ground and it does not require to be corrected in this appeal." "

6. The aforesaid ratio of law has been reiterated by Supreme Court in the case of ***Indra Bai vs. Oriental Insurance Company Ltd. and another (2023) 8 SCC 217***, observing as under:-

"28. In light of the aforesaid decisions and the definition of the term "total disablement" as provided by clause (l) of sub-section (1) of Section 2 of the Act, it is the functional disability and not just the physical disability which is the determining factor in assessing whether the claimant (i.e., workman) has incurred total disablement. Thus, if the disablement incurred in an accident incapacitates a workman for all work which he was capable of performing at the time of the accident resulting in such disablement, the disablement would be taken as total for the purposes of award of compensation under Section 4(1)(b) of the Act regardless of the injury sustained being not one as specified in Part I of Schedule I of the Act. The proviso to clause (l) of sub-section (1) of Section 2 of the Act does not dilute the import of the substantive clause. Rather, it adds to it by specifying categories wherein it shall be deemed that there is permanent total disablement.

29. In Mohd. Nasir (supra), which has been relied by the High Court, the workman was a cleaner. He had suffered fracture in the leg. It was held that such injury would not amount to permanent loss of the use of the entire leg. Hence, the disablement was found partial and not total."



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

8. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

**(PANKAJ JAIN)**  
**JUDGE**

**18.08.2025**

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Whether speaking/reasoned : Yes

Whether Reportable : No