

2025:PHHC:019800



[231] IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO-2815-2000 (O&M)
Date of Decision : 11.02.2025

Avtar Singh ...Appellant

versus

Kulwant SinghRespondent

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

Present: Mr. Naresh Prabhakar, Advocate
for the appellant.

Ms. Ishani Goyal, Advocate
Mr. Davis Jindal, Advocate and
Mr. Deepak K. Bishnoi, Advocate
for the respondent.

PANKAJ JAIN, J. (ORAL)

[1] Instant appeal is directed against order dated 03.10.2000 passed by the learned Commissioner, under the Workmen's Compensation Act, Kapurthala.

[2] Respondent filed claim application, seeking compensation of Rs.1,50,000/- for having lost his right hand in an untoward incident, arising out of and during the course of employment, claiming that he was employed with the appellant to work on *tokka* machine to cut fodder at a monthly wages of Rs.1500/- along with overtime of Rs.25/- per day.

[3] The claim was contested by the appellant, claiming that though at the time of accident, the claimant was working on the *tokka* machine of



the appellant but he was cutting fodder for his own cattle. There being no relationship of employer-employee between the parties. The claim petition was not maintainable. It was further claimed by the appellant that owing to cordial relationship between the parties, appellant purchased the claimant's clothes worth Rs.5173/- and also got him admitted in a Civil Hospital, Kapurthala, spending Rs.5,000/-. It was further claimed that the applicant has already received compensation of Rs.12,000/- from Market Committee, Kapurthala.

[4] On the basis of the pleadings, the following issues were framed:-

- “1. *Whether the applicant is a workman within the meaning of the Act? OPA*
2. *Whether the accident arose out of or in the course of the applicant's employment? OPA*
3. *Whether the applicant is entitled to compensation, if so, the exact amount? OPA.*
4. *Relief. ”*

[5] While finding on Issue No.1, learned Commissioner held that from the evidence, it stands proved that Kulwant Singh-claimant was employed by the appellant and met with an accident on 05.06.1994. In an accident arising out of and during the course of employment. The claim petition filed by the claimant was allowed and he was held entitled to the compensation of Rs.88,151/- along with interest @ 12%.



[6] Mr. Prabhakar, counsel for the appellant, submits that the findings recorded on Issue No.1 are perverse. Strong reliance is being placed upon the application filed by the claimant before the Market Committee, Kapurthala, seeking compensation, in which, the facts of employment with the appellant has not been mentioned.

[7] *Per contra*, counsel for the respondent submits that the learned Commissioner has rightly held that the claimant was employed with the appellant. Counsel further submits that rather the compensation awarded has been wrongly calculated by reducing it by Rs.67,811/-. He further submits that under the provisions of Employees Compensation Act, the compensation could not have been granted less than Rs.90,000/-.

[8] In the considered opinion of this Court, on 05.06.1994, the fact that the claimant was working on the *tokka* machine owned by the appellant is not in dispute. Onus thus shifted upon appellant to lead cogent evidence to prove in what capacity the claimant was operating machine owned by him. He failed to discharge the same. Thus, Commissioner rightly inferred that employer-employee relationship is established. Learned Commissioner has rightly granted compensation to the claimant for the amputation of right hand of the claimant while operating machine used by the appellant.

[9] **Dismissed.**

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[10] All pending miscellaneous application(s), if any, also stands *disposed off*.

(PANKAJ JAIN)
JUDGE

11.02.2025
'R. Sharma'

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