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

**CM-15532-CII-2024 in
FAO No.4017 of 2010
Date of decision : 03.09.2025**

JANG SINGH

...Appellant

Versus

M/S SHIV SHANKAR RICE MILLS AND ORS.

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Himmat Singh, Advocate
for the applicant/appellant.

Mr. Prem Chand Chaudhary, Advocate
for respondent No.1.

PANKAJ JAIN, J. (ORAL)

CM-15532-CII-2024

This is an application filed under Section 151 CPC for fixing the actual date in the main appeal.

For the reasons recorded in the application, the same is allowed.

Main appeal is taken on Board today itself for hearing.

FAO No.4017 of 2010

Challenge is to the order dated 17.03.2009 passed by Commissioner under Workmen's Compensation Act, 1923 (now known as Employee's Compensation Act, 1923).

2. The claimant is in appeal. Claimant has been rendered permanently disabled to the extent of 75% in an accident arising out of and



during the course of employment. The Commissioner has assessed the compensation taking the permanent disability of the appellant to the extent of 75% and awarded compensation of Rs.2,37,510/-.

3. Counsel for the appellant submits that keeping in view the nature of injuries suffered by the appellant and the fact that he was rendered permanently disabled to the extent of 75%, his functional disability ought to have been taken into consideration. He relies upon ratio of law laid down by Larger Bench of Supreme Court in the case of '**Pratap Narain Singh Deo v. Srinivas Sabata**', (1976) 1 SCC 289, which has been followed and reiterated in the case of '**K. Janardhan vs. M/s United India Insurance Co. Ltd and another**', (2008) 8 SCC 518, observing as under:

“xxx

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xxx”

3. The learned counsel for the appellant has raised only one argument during the course of the hearing. He has submitted that the claimant - appellant being a tanker driver, the loss of his right leg ipso facto meant a total disablement as understood in terms of Section 2(l)(e) of the Workmen's Compensation Act and as such the appellant was entitled to have his compensation computed on that basis. In support of this plea, the learned counsel has placed reliance on *Pratap Narain Singh Deo v. Srinivas Sabata and Anr.* (1976) 1 SCC 289. The cited case pertained to a carpenter who had suffered an amputation of his left arm from the elbow and this court held that this amounted to a total disability as the injury was of such a nature that the claimant had been disabled from all work which he was capable of performing at the time of the accident. It was observed as under :

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



"(1) 'total disablement' means such disablement whether of a temporary or permanent nature, as incapacitates 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. There is also no justification for the other argument which has been advanced with reference to Item 3 of Part II of Schedule 1, because it was not the appellant's case before the Commissioner that amputation of the arm was from 8" from tip of acromion to less than 4 below the tip of olecranon. A new case cannot therefore be allowed to be set up on facts which have not been admitted or established.

4. Applying the ratio of the cited judgment to the facts of the present case we are of the opinion that the appellant herein has also suffered a 100% disability and incapacity in earning his keep as a tanker driver as his right leg had been amputated from the knee.



Additionally, a perusal of Sections 8 and 9 of the Motor Vehicles Act, 1988 would show that the appellant would now be disqualified from even getting a driving licence.

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xxx”

4. Keeping in view the nature of injury suffered by the claimant i.e. neurological damage on account of electrocution, this Court finds that the issue is fully covered in favour of the appellant by the ratio of law laid down in *Pratap Narain Singh Deo's case* (supra). The impugned order passed by the Commissioner thus deserves to be modified accordingly.

5. The compensation thus shall be as under:

$$131.95 \times 4000 \times 1/2 = \text{Rs.}2,63,900/-$$

6. Keeping in view that the appellant remained hospitalized for 38 days, he is awarded another sum of Rs.40,000/- on account of medical expenses. The awarded compensation shall carry interest @ 12% per annum for the period commencing from 30 days after the date of accident till the date of actual realization.

7. Accordingly, the instant appeal is disposed off.

September 03, 2025

(Pankaj Jain)

Dpr

Judge

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No