



FAO-6724-2023 (O&M) & FAO-1468-2024 (O&M)

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IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

S.No.314

I.**Date of decision : 29.5.2025
FAO-6724-2023 (O&M)**

New India Assurance Company Limited

... Appellant

VERSUS

Amrik Singh and others

... Respondents

II.**FAO-1468-2023 (O&M)**

Amrik Singh

... Appellant

VERSUS

Haryana Timber Industry Udhyog Marg and others

... Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Rajneesh Malhotra, Advocate,
for the appellant in FAO-6724-2023 and
for respondent No.3 in FAO-1468-2024.

Mr. Siddharth Gulati, Advocate,
for respondent No.1 in FAO-6724-2023 and
for the appellant in FAO-1468-2024..

PANKAJ JAIN, J. (Oral)

These are cross appeals by the insurance company and the claimant directed against order dated 20.07.2023 passed by the Commissioner, Kaithal under Employees' Compensation Act, 1923. The claim petition was filed by injured-workman who was employed as full time labourer in saw mill. On 18.07.2011 while working on the machine, his left



hand was amputated and he was rendered permanently disabled. The medical experts assessed his disability as 45%. The Commissioner awarded compensation accordingly.

2. The insurance company is aggrieved of the order asserting that the Commissioner misread the evidence on record. As per the medical opinion, permanent disability qua whole body was 32% and thus, the compensation ought to have been awarded commensurating to the permanent disability suffered qua the entire body.

3. The claimant is in appeal seeking enhancement of compensation claiming that the Commissioner ought to have been alive to the condition of the workman who has lost his left hand. He was earning his livelihood working as a labourer on saw machine. Having been rendered incapacitated from pursuing his vocation, the Commissioner ought to have assessed his functional disability to the extent of 100% and paid compensation accordingly.

4. I have heard the learned counsel for the parties and have carefully gone through the record of the case.

5. Facts are not much in dispute. Only issue is as to whether permanent disability suffered by the workman after having lost his left hand should be treated as 100% or as 32% as suggested and argued by Mr. Malhotra. The issue is no more *res integra* and already stands answered by the Supreme Court in **Pratap Narain Singh Deo v. Srinivas Sabata and another** (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." "

8. 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.”

6. In view of above, applying the aforesaid parameters, this Court finds that the permanent disability being of the nature where the workman has lost his source of livelihood, the Commissioner ought to have assessed the compensation treating functional disability of the workman as 100%. The Commissioner has also erred in taking actual salary of the workman as basis for assessing the compensation. The accident is of 18.07.2011. For the relevant date, the notification issued by Central Government under Section 4(1B) of the Act provides wages to be ₹ 8000/-. In view of above, the appeal preferred by the insurance company is dismissed. The order passed by the Commissioner is modified to the extent that the compensation payable to the claimant shall read as :

$$201.66 \times 8000 \times 50 / 100 = 8,06,640 \text{ /-}$$



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7. The claimant shall also be entitled interest @ 12% per annum for the period commencing from 18.07.2011 till the date of actual realization in terms of the provisions contained in Section 4A of the 1923 Act. Penalty shall be payable by the employer. The claimant is also held entitled to penalty @ 25% of the awarded compensation.

8. Disposed off.

(PANKAJ JAIN)
JUDGE

May 29, 2025
Paritosh Kumar

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