

**IN THE HIGH COURT OF HIMACHAL PRADESH AT
SHIMLA**

FAO No. 201 of 2014

Reserved on: 10.08.2026

Date of decision: 14.08.2026

**Date of uploading on website:
14.08.2026**

Dabe Ram

.....Appellant.

Versus

R.P. Kapoor & others

.....Respondents.

Coram

The Hon'ble Mr. Justice Sushil Kukreja, Judge.

¹ *Whether approved for reporting?*

For the appellant:

Mr. Sanjeev Kuthiala, Senior
Advocate, with Ms. Tamanna
Sharma, Advocate.

For the respondents:

Mr. Manjeet Singh Pasreecha,
Advocate, vice Mr. G.R. Palsra,
Advocate.

Sushil Kukreja, Judge.

The present appeal is maintained by the appellant, who was the petitioner/claimant, before the learned Commissioner below (hereinafter referred to as “the petitioner/claimant”) against award dated 29.03.2014, passed by learned Civil Judge (Senior Division) Mandi, District Mandi, H.P., (hereinafter referred to as “the learned

¹ *Whether reporters of Local Papers may be allowed to see the judgment?*

Commissioner below”) in W.C. Petition No. 46 of 2011, whereby the petition filed by the petitioner/claimant (appellant herein), before the learned Commissioner below, under the Workmen Compensation Act (for short “the Act”), was allowed.

2. Succinctly, the facts giving rise to the present appeal are that the respondents were the owners/proprietors and managers of M/s Mandav Air Industries, Plot No. 12, Industrial Area, Phase-I, Saulikhad, Mandi, H.P. and they had employed the petitioner/claimant for construction of Mandav Air Industries. The petitioner averred that he had been engaged, as such for the last one year prior to 13.05.2000 and on 13.05.2000 he was carrying blocks to slab of which shuttering was fresh. As per the petitioner, due to negligence and carelessness of the respondents, the shuttering collapsed and the same alongwith blocks fell on him, due to which he became unconscious. He was rushed to Zonal Hospital, Mandi by respondents No. 2 and 3, Devinder Kumar Behal and Bali Ram, respectively. The petitioner remained admitted in ZH, Mandi, for two days and thereafter he was referred to Dental College, Shimla, where he was treated for fracture of jaw and plastered for one month. The

petitioner further averred that due to the aforesaid accident, he sustained permanent total speech disability and his two and half teeth were broken and phalanges of both hands got distorted. He also got retarded his lower limb locomotion and he was unable to take solid food, as such he was upon liquid diet from the date of the accident. He was also unable to feel the taste of food and also unable to do any kind of work. He was having six minor children and unemployed wife and all of them were dependent upon him. The petitioner approached the respondents for compensation, but they refused to pay anything. As per the petitioner, due to above narrated disability, he was unable to perform any kind of work for earning his livelihood and to support his family. At the time of the accident, the petitioner was 52 years old and he used to earn Rs.80/- as daily wages, thus his monthly wages were Rs.2400/-.

3. The respondents contested the claim petition by filing reply, wherein they took preliminary objections of maintainability of the petition and limitation. The respondents, on merits, averred that the petitioner was never employed by them on any work and thus there was no relationship of employer and employee between them. As

per the replying respondents, on 13.05.2000 the petitioner visited the site of work to meet some of his friends and without the knowledge of the respondents, he went to the place of construction where shuttering had been laid for raising blocks wall. The replying respondents further averred that the shuttering collapsed and the petitioner received injuries. The respondents helped the petitioner on humanitarian ground by spending upon his treatment. As per the respondents, the alleged accident took place due to the negligence and carelessness of the petitioner. It was averred that respondent No. 1 had given the construction work of Mandav Air Industries on contract labour to respondent No. 3 and respondent No. 2 is neither owner nor manager of M/s Mandav Air Industries.

4. On the basis of the pleadings of the parties, on 18.08.2012, the learned Court below framed the following issues for determination and adjudication:

- “1. Whether the petitioner is a workman as per the provisions of the Employees Workmen compensation Act? OPP***
- 2. Whether the accident has taken place during the course of employment and the petitioner sustained disability as 15% as alleged? OPP***
- 3. In case issues No. 1 and 2 are proved in affirmative, whether the petitioner is***

entitled for compensation, as prayed for? OPP

4. Relief.”

5. After hearing the learned counsel for the parties and considering the evidence on record, the learned Commissioner below allowed the petition and held the petitioner/claimant entitled for compensation to the tune of Rs.26,316/- alongwith interest @ 12% per annum from 12.06.2000 till realization of the entire amount and the respondents were jointly and severally held liable to pay the above compensation amount.

6. The petitioner/claimant still feeling aggrieved preferred the instant appeal under Section 30 of the Act with a prayer that award amount be enhanced by allowing the instant appeal.

7. On 04.08.2026, the instant appeal was admitted on the following substantial questions of law:

“1. Whether learned Commissioner was right in concluding that the injuries of the appellant, which were of a permanent nature were not total disability, but was only partial permanent disability contrary to the provisions of the definition of Section 2(g) and Section 2(1) of the Employees Compensation Act, as amended by the Workman Amendment Act?

2. Whether on the pleadings and the proof of

the workman being a labourer and on account of his permanent disability, the workman was entitled to the amount of compensation as per Section 4 of the Act, considering 100% disablement and incapacitation of performing work?

3. Whether the expression “total disablement” as defined under Section 2(1) of the Act, would be construed to be 100% disability and incapacity in earning of a labourer, where the locomotive retardation of the lower limb of the labourer is permanent locomotive retardation, resulting in incapacity to work as a labourer and whether on the disability certificate showing 15% permanent total disability, the deduction was to be made for the purpose of calculations of the amount of compensation and whether such findings are sustained in law?”

8. The learned Senior Counsel for the appellant- contended that as a result of the accident, the appellant had got permanent disability and phalanges of both of his hands got distorted on account of which the appellant could not perform his duties of a labourer nor could he do any other work and without appreciating the evidence in its right perspective, the learned Commissioner below had awarded a meager amount of compensation which deserves to be enhanced.

9. Conversely, the learned vice counsel for the respondents supported the impugned award and contended

that the learned Commissioner below had passed a well reasoned award and the same does not need any interference.

10. I have heard the learned Senior Counsel for the appellant, learned vice counsel for the respondents and carefully examined the entire records.

11. The petitioner (appellant) while appearing in the witness-box as PW-3 tendered in evidence his affidavit, Ex.PW-3/A, wherein he reiterated almost all the averments made in his petition. The petitioner in support of his case also examined Shri Hans Raj, Dr. D.K. Arora and Shri Purkhu Ram, PWs, 1, 2 and 4, respectively. PW-2 Dr. D.K. Arora deposed that he had examined the petitioner on 25.08.2001 and found mild speech defect and permanent disability to the extent of 15% and had issued disability certificate.

12. On the other hand, respondents had examined RW-1 Shri Rajinder Prashad and Shri Balia Ram as RW-2.

13. The case of the petitioner is that due to the accident his jaw was fractured and plaster was affixed, which was removed after one month and he also sustained permanent total disability in the shape of speech disability

and two full and two half teeth were broken and phalanges of both of his hands got distorted, but the learned Commissioner below had not awarded adequate compensation in his favour. Now the question, which arises for consideration before this Court is as to whether the learned Commissioner below had not awarded adequate compensation in favour of the petitioner..

14. The perusal of discharge slip, Ex. PW-1/D, reveals that the petitioner remained admitted in Zonal Hospital, Mandi, as an indoor patient and he had received injuries in his jaw. After being discharged, from Zonal Hospital, Mandi on 14.05.2000, he was referred to IGMC, Shimla, to Department of Dental Surgery. The petitioner had placed on record prescription slips of his treatment at IGMC, Shimla, as Mark X1 to Mark X5. He had also placed on record his disability certificate, Ex. PW-1/A, the perusal of which shows that on account of the said accident, he received 15% disability in the shape of mild speech defect of permanent nature. The perusal of the impugned award shows that the learned Commissioner below had awarded compensation to the petitioner in the sum of Rs.26,316/- on account of disability suffered by him. However, there is no

evidence on record to suggest that phalanges of both the hands of the petitioner got permanently distorted. There is also no evidence to suggest that the petitioner could not perform his duties of a labourer, due to his locomotive disability, on account of alleged injuries sustained by him. The petitioner had also failed to examine any medical officer/doctor in support of his case that he had received injuries as aforesaid. It was incumbent upon the petitioner to prove that on account of the injuries sustained by him he got permanent distorted lower limb locomotion and was unable to take solid food and dependent on liquid diet and he was not in a position to do work of labourer or any other work, as alleged by him. However, for the reasons best known to the petitioner, he had failed to place any material on record in support of his case and he had also failed to produce any doctor/medical officer in the witness-box. Therefore, in the absence of any material on record, it cannot be said that the learned Commissioner below had awarded inadequate compensation in favour of the petitioner.

15. In view of what has been discussed hereinabove, the impugned award does not need any interference and the substantial questions of law are answered accordingly. The

instant appeal, being devoid of merits, deserves dismissal and is accordingly dismissed.

Pending miscellaneous application(s), if any, shall also stand(s) disposed of.

(Sushil Kukreja)
Judge

14th August, 2026
(virender)