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

**FAO No. 645 of 2002 (O&M) with
XOBJC No. 62-CII of 2002
Date of Decision: 22.07.2026**

Bittu

...Appellant

Versus

Parul Dairy

...Respondent

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present:- Ms. Surbhi Rana, Advocate for
Mr. Pritam Singh Saini, Advocate
for the appellant-claimant.

Mr. Rajesh Arora, Advocate
for the respondent/cross-objector.

HARKESH MANUJA, J. (ORAL)

By way of the present appeal, challenge has been laid to the order dated 23.08.2001 passed by the learned Commissioner under Workmen's Compensation Act, Kurukshetra (**hereinafter referred to as "the Commissioner"**), whereby the claim petition preferred by the appellant under the provisions of the Workmen's Compensation Act, 1923 (**for short, "the 1923 Act"**), on account of permanent injuries sustained by him during the course of employment, was allowed and compensation of Rs. 7,784/- was ordered to be paid by the respondent within one month from the order, failing which the appellant was entitled for interest at the rate of 12% per annum till the amount is realized.

[2] Briefly stating, the case of the claimant-Bittu was that he was working as Helper with the respondent on monthly salary at the rate

of Rs. 960/-. On 25.02.1997, while removing the powder from machine, his hand was entangled in the fan of said machine, resulting in the amputation of two middle fingers of right hand; initially, he was shifted at Akashet Nursing Home; subsequently admitted to L.N.J.P. Hospital, Kurukshetra where he remained admitted upto 05.03.1997. Alleging permanent disability due to an accident during the course of employment, he filed a claim petition under Section 10 of the 1923 Act.

[3] Upon appreciation of the evidence, the learned Commissioner held that the claimant sustained injuries during the course of employment and by applying the relevant factor of 225.22, awarded compensation of Rs. 7,784/- payable within one month from the order, failing which the respondent was directed to further pay the interest at the rate of 12% per annum till the amount is realized.

[4] Learned counsel for the appellant-claimant contends that learned Commissioner erred in assessing compensation by treating the disability @ 6%, whereas the injuries suffered by the appellant, namely, amputation of two middle fingers of the right hand, fall under Entry No. 9 of Part II of Schedule I of the 1923 Act, which prescribes 20% loss of earning capacity. She thus prays that the award is liable to be modified.

[5] On the other hand, learned counsel for the respondent, by way of cross-objections, assailed the award dated 23.08.2001 passed by the Commissioner, contending that the injury sustained by the appellant was attributable due to his own fault; therefore, the award is liable to be set aside.

[6] I have heard learned counsel for the parties and perused the paper-book.

[7] In the present case, the respondent in his written statement admitted that the appellant was working as a Helper and getting salary of Rs. 960/- per month. A perusal of the case file reveals that the appellant, who appeared as PW-2, deposed that on 25.02.1997, while removing powder from the machine, his hand got entangled in it, resulting into the amputation of two middle fingers of right hand; whereas RW-1/Hakim Singh deposed that the duty of the appellant was only to check the flow of milk powder and report any defect to the shift incharge. Having considered the evidence and material available on record, the learned Commissioner has rightly observed that *“if some defect is arose in the machine, usually first of all the person working on the same check it and the same thing was done in the case in hand, when the appellant checked the flow of the powder, his right hand was entangled with the machine”*; The finding that the accident arose out of and during the course of employment is based on proper appreciation of the evidence and calls for no interference.

The disability certificate (Ex.A-1) proving permanent disability was duly proved on record. However, the learned Commissioner committed an error in determining compensation on the basis of the medical disability of 6%. Under Entry No.9 of Part II of Schedule I to the 1923 Act; amputation of two middle fingers is deemed to result in 20% loss of earning capacity. Therefore, in terms of Section 4(1)(c)(ii) of the 1923 Act, compensation is required to be computed on the basis of the

statutory percentage of loss of earning capacity and not merely on the percentage of physical disability.

[8] The admitted monthly wages of the appellant were Rs.960/-. Sixty per cent thereof comes to Rs.576/-. Applying the relevant factor of 225.22 as provided in Schedule IV, the amount works out to Rs.1,29,726.72 (Rs.576 × 225.22). Since the prescribed loss of earning capacity is 20%, the compensation payable comes to Rs.25,945.34, which is rounded off to Rs.25,945/-.

[9] Consequently, the impugned award dated 23.08.2001 is modified to the extent that the appellant shall be entitled to compensation of Rs.25,945/- instead of Rs.7,784/-. After adjusting the amount already paid, the balance compensation shall be released to the appellant together with interest @12% per annum from the date it fell due in accordance with Section 4A of the Workmen's Compensation Act, 1923, till the date of actual realization.

[10] Consequently, the **appeal is partly allowed** while **dismissing the cross-objections** filed at the instance of respondent.

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

July 22, 2026
‘dk kamra’

(HARKESH MANUJA)
JUDGE

Whether Speaking / Reasoned :	Yes	No
Whether Reportable :	Yes	No