

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

**F. A. O NO. 166 OF 1996 (O&M)
DECIDED ON : 09.03.2015**

M/s Arjun Lal Brij Lal and another

...Appellants

versus

Birbhan

...Respondent

CORAM : HON'BLE MR. JUSTICE K. C. PURI

Present : Mr. Saurabh Garg, Advocate,
for the appellants.

K. C. PURI, J. (ORAL)

Challenge in this appeal is to the Award dated 27.07.1995 passed by the Commissioner under the Workmen's Compensation Act, 1923, Karnal, vide which the claim petition preferred by the claimant on account of injuries suffered by him while working under the workman, was partly accepted and a sum of ₹52,000/- was awarded as compensation.

Briefly stated, Bir Bhan filed claim petition claiming compensation to the tune of ₹2,50,000/- on account of injuries suffered by him while working in the factory.

The case of the claimant now respondent is that he was employed by the present appellant for drying paddy on a

machine at the monthly wages of ₹1200/-. On the date of occurrence, while cleaning the machine, all his fingers of left hand were amputated. The incident was witnessed by Devinder Sharma, Jai Bhagwan and Neter Pal, workmen. So, he claimed a sum of ₹2,50,000/- along with interest as compensation.

Notice of the claim petition was given to respondents. The respondent now appellant filed written statement denying all the contents of the claim petition.

Rejoinder was not filed. From the pleadings of parties, following issues were framed :

1. Whether there is relationship of employee and employer between the parties ?
2. Whether the accident arose out of and during the course of employment of the respondent ?
3. Whether the applicant is entitled for the amount of compensation ?
4. Relief.

In order to prove his case, claimant examined three witnesses and closed the evidence.

On the other hand, respondents did not examine any witness and their evidence was closed by order.

The learned Tribunal, after appraisal of the evidence available on record, partly accepted the petition and awarded a sum of ₹52000/- as compensation to the claimant. The said

Award has been challenged by the appellant before this court.

Feeling dissatisfied with the above said award dated 27.01.2014, the claimant has preferred the present appeal.

Learned counsel for the appellant has submitted that statement of the claimant and the witnesses was contradictory. It is further submitted that the evidence of appellant was closed by order and one opportunity was granted to the appellant by the High Court but that opportunity has not been given properly.

Learned counsel for the appellant has further submitted that although the amount of compensation has been paid but since the workmen has failed to prove his employment with the appellant and as such, he is not entitled to claim any compensation. The witnesses produced by the claimant are deposing falsely as they are against the appellant.

The evidence of the claimant goes un rebutted as the appellant has not produced even a single witness. The evidence of appellant was closed by order and even according to the appellant, one opportunity was granted by this court but in spite of that, no witness was examined by the appellant. The Tribunal/Commissioner has rightly held that minor contradictions are not sufficient to discard the case of claimant. Otherwise also, learned counsel for the appellant could not point out as to why the workman has claimed compensation from him falsely. Otherwise also, the amount of compensation is stated to have been paid by the claimant as no stay order has been passed by

this court and on that account, the workmen has not appeared in spite of service.

No other point has been urged before me.

So, in view of the above discussion, the appeal is without any merit and the same stands dismissed.

MARCH 09, 2015
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(K. C. PURI)
JUDGE