

FAO No. 3825 of 2015 (O&M)

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

FAO No. 3825 of 2015 (O&M)

Date of Decision: August 14, 2015

New India Assurance Company Limited

...Appellant

Versus

Sh. Chet Ram & another

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. R.C. Kapoor, Advocate
for the appellant.

AUGUSTINE GEORGE MASIH, J. (Oral):

CM No.11690-CII of 2015

Prayer in this application is for condonation of delay of 39 days in filing the appeal. The reasons for delay are that after obtaining the copy of judgment and the legal opinion, the file was processed in different offices and ultimately a decision was taken for filing the appeal in High Court. Some time was taken by the counsel to prepare the grounds of appeal and the paper-book and ultimately, the appeal was filed resulting in 39 days' delay in filing the appeal.

For the reasons mentioned in the application which explains the delay which has occurred in filing the appeal which are found to be reasonable, the present application is allowed. Delay of

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39 days in filing the appeal stands condoned.

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Challenge in this appeal is to the order dated 30.01.2015 passed by the Commissioner under the Employees' Compensation Act, 1923, Circle-III, Faridabad, whereby, an amount of ₹1,17,400/- which has been spent by respondent No.1 on his treatment who suffered an injury during the employment, which fact is not disputed, stands granted to him as compensation to be paid within 60 days from the date of order alongwith interest @ 9% per annum from the date of filing the claim application i.e. 17.01.2012 till the date of payment.

It is the contention of the counsel for the appellant that there is no permanent or partial disability which respondent No.1 has suffered in the accident which has taken place on 26.10.2011. He could not dispute the expenses which have been incurred by respondent No.1 on his treatment and as assessed i.e. ₹1,17,400/-, however, he submits that the said amount of compensation could not have been granted by the Commissioner, because of the fact that the provisions as contained under Sections 3 and 4 of the Employees' Compensation Act, 1923 are not fulfilled. He contends that the employee's eligibility for compensation is limited to the extent, where an injury has resulted in permanent or partial disability and therefore, the amount of compensation to be assessed under Section 4 is to be

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governed by the nature of disability which an employee actually suffers. He submits that none of the conditions as mentioned in Section 4 for assessment of the amount of compensation having been fulfilled, the impugned order cannot be sustained.

I have considered the submissions made by the counsel for the appellant.

It is not disputed that the accident took place on 26.10.2011 which was during the course of employment. It is also not disputed that respondent No.1 was admitted in hospital on 26.10.2011 and remained admitted till 05.11.2011 as an indoor patient which is about 10 days. He was operated upon and had incurred expenses during the treatment. The injury has resulted in the fracture for which a plaster had to be put. All this indicates that respondent No.1 was disabled, at least, for the said period as he was admitted in the hospital and was an indoor patient cause of which was the accident.

As per the provisions of Section 4 (d) of the Employees' Compensation Act, amount of compensation had to be assessed where there is temporary disablement whether total or partial, which is the result of an injury. Since respondent No.2 had been admitted in the hospital as an indoor patient from 26.10.2011 to 05.11.2011 and had also been plastered, the disability apparently is made out although it is a temporary disablement, therefore, liability of the

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employer for compensation is clearly made out. Merely because there is no disability certificate submitted by respondent No.1 and the injury is not included in the Schedule, cannot be a ground for denying compensation, especially when the same is to be assessed as per Section 4 (d) of the Employees' Compensation Act, which does not mandate such a requirement.

In view of the above, finding no merit in the present appeal, the same stands dismissed.

August 14, 2015

Harish

**(AUGUSTINE GEORGE MASIH)
JUDGE**