

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

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CM No.15140-CII of 2015 and
FAO No.4929 of 2015

Date of Decision: July 21, 2016

Hindustan Auto Electronics

...Appellant

Versus

Narender Kumar

...Respondent

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Sandeep Gahlawat, Advocate
for the applicant-appellant.

AUGUSTINE GEORGE MASIH, J. (ORAL)

CM No.15140-CII of 2015

There is a delay of 49 days in filing the appeal.

For the reasons mentioned in the application which is duly supported by the affidavit of the counsel, according to which the brief was misplaced in his office, the present application is allowed.

Delay of 49 days in filing the appeal stands condoned.

FAO No.4929 of 2015

Challenge in this appeal is to the order dated 01.12.2014 passed by the Commissioner under The Employee's Compensation Act, 1923, Rewari, whereby the claim petition of the respondent has been allowed by granting him compensation amounting to ₹1,63,493/- along with interest at the rate of 12% per annum and treatment bill amounting to ₹4,065/- to be deposited within a period of 60 days from the date of the order.

2. It is the contention of learned counsel for the appellant that the impugned order cannot sustain as the respondent has failed to establish the

relationship of employer and employee between the parties. In the absence of such a relationship, there can be no liability foisted upon the appellant. His further contention is that the compensation amount as assessed by the Commissioner is on the higher side and, therefore need to be toned down. He accordingly prays for allowing the present appeal.

3. I have considered the submissions made by learned counsel for the appellant and with his assistance, have gone through the impugned order.

4. On the basis of evidence led by the parties, the Commissioner has, on due consideration thereof, come to a conclusion that there is indeed a relationship of employer and employee because the nature of business which was being run by the appellant and the type of work which the respondent-claimant had been performing in his shop, stands proved and the relationship of employer and employee did exist between the parties. The factum of an accident having taken place has also been proved beyond doubt on the basis of the statements which have been brought on record apart from medical evidence which establishes the disability of the respondent-claimant, according to which he has lost vision in one of his eyes rendering him 30% permanently disabled as per the Disability Certificate Exhibit A-1. The findings as recorded by the Commissioner, thus, cannot be faulted with.

5. As regards the contention of learned counsel for the appellant that the compensation amount has not been rightly assessed, the same also cannot be accepted as the Commissioner has rightly calculated the claim as

per the provisions of the statute relying upon the provisions as contained in Section 4 of The Employee's Compensation Act, 1923. The interest, as has been granted, is under Section 4(1)(b). The treatment expenses have also been granted as per the statutory provisions and that too on the basis of the proved evidence brought on record in the form of receipts and bills.

6. There being no merit in the present appeal, the same, therefore, stands dismissed.

July 21, 2016
Puneet

(AUGUSTINE GEORGE MASIH)
JUDGE