

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

361

FAO No.1457 of 1994 (O&M)

Date of Decision : 07.03.2018

Shri Gurnam Singh (now deceased) through his LR's

..... Appellant

Versus

Ram Parshad

..... Respondent

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present: Ms. Suman Devi, Advocate for
Ms. Deepali Puri, Advocate
for the appellant.

None for the respondent.

AJAY TEWARI, J. (Oral)

This appeal has been filed against the award of the Commissioner under the Workmen Compensation Act, 1923 dismissing a claim application filed by the appellant.

The case of the appellant was that he was employed at chakki of the respondent and on the fateful day while working on the chakki a stone hit his right eye, as a result of which he was admitted to hospital, incurred expenses and was suffered with a permanent disability.

The respondent on the other hand denied that the appellant was employed with him or that he suffered any injury during the course of his employment. The appellant appeared as his own witness as PW-I and deposed in favour of his case. He also examined Deepa Ram who stated that his shop is quite near the chakki and he certified that the appellant had

examination however, he admitted that he had never seen the respondent pay any salary to the appellant in his presence.

On the other hand the respondent appeared and stated that the appellant was never employed with him. RW-2 Baldev Raj also appeared in witness and stated that his shop is close to that of the respondent and he is a Panchayat member and he further testified that the appellant was not employed by the respondent. The Commissioner held that the appellant had not been able to prove his employment and consequently, dismissed the claim hence the present appeal.

Learned counsel has argued that the Commissioner took too harsh and pedantic a view and in a beneficial legislation such strict standards of proof are not called for. As an abstract proposition of law no fault can be found with this argument. However, even to get the benefit of a beneficial legislation the appellant has to show that he was employed with the respondent, if not on the basis of certainty, atleast on the basis of preponderance of probability.

Having gone through the testimony of all the witnesses, I am not able to convince myself that the appellant has able to discharge his onus.

Appeal is dismissed.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

(AJAY TEWARI)
JUDGE

07.03.2018

Pooja sharma-I

Whether speaking/reasoned	-	Yes/No
Whether reportable	-	Yes/No