

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

406

FAO No.1479 of 1996 (O&M)

Date of Decision : 21.03.2018

Harbhajan Singh

..... Appellant

Versus

Dilbagh Singh and others

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present :- Mr. Tahaf Bains, Advocate
for the appellant.

None for respondents No.1 to 3.

Mr. Sandeep Suri, Advocate
for the respondent No.4.

AJAY TEWARI, J. (Oral)

This appeal has been filed against the award dated 07.02.1996 passed by the Commissioner, Hoshiarpur under the Workmen's Compensation Act, 1923.

The un-disputed facts are that the appellant was working as a Driver with respondents No.1 to 3 on vehicle No.PIH 5758, Mark 407 Tata Tempo when on the fateful day he met with an accident where his right arm was amputated. His claim was that he was earning Rs.2,000/- as salary per month while the claim of respondent No.4 was that he was being paid Rs.25/- a day. The Commissioner took his salary as Rs.750/- and his disability @ 70% and consequently ordered compensation of Rs.48,345/-.

On behalf of the appellant these four mistakes have been

in **Pratap Narain Singh Deo Vs. Srinivas Sabata (1976) 1 SCC 289** once the right arm of the appellant was amputated he could no longer hold on to his job as Driver and therefore, the disability had to be taken as 100%.

Learned counsel for the respondent is not in a position to cite any contrary judgment. Consequently, the disability is taken as 100%.

The second argument is that the salary of Rs.750/- is highly inadequate. I find this argument to be correct and take the salary at Rs.1,000/-.

The next point is that no penalty was imposed. In my opinion 50% of the awarded amount has to be taken as penalty which would be recoverable from the employer-respondents No.1 to 3. The last point is that only conditional interest has been awarded. As per law prevalent at that time interest of 6% is to be awarded from one month after the date of the accident till the date of payment. The interest burden will be on respondent No.5-Insurance Company

Appeal stands allowed in the above terms.

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

(**AJAY TEWARI**)
JUDGE

21.03.2018
Pooja sharma-I

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No