

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

420

FAO-1907-1996 (O&M)

Date of Decision : 26.03.2018

Ishwar Singh

..... Appellant

Versus

Prop. M/s Prudent Enterprises Liberty Footwear and another

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. Sagar Aggarwal, Advocate
for Mr. Ashit Malik, Advocate
for the appellant.

None for the respondents.

AJAY TEWARI, J. (Oral)

This case had been listed yesterday but none had entered appearance on behalf of the respondents. Even today none has entered appearance on behalf of the respondents. Consequently, this case is proceeded ex-parte against the respondents.

This appeal has been filed by the appellant against the award of the Commissioner dated 31.01.1996 under the Workmen Compensation Act, 1923 for enhancement of compensation. Since only a limited issue is involved in the present appeal further detailed reference to the facts would not be necessary.

The first argument raised by the counsel for the appellant is that the Commissioner determined the factor by taking age of the appellant to be 39 years on the basis that on the date of testimony i.e.

27.10.1994 the appellant had admitted that he was 40 years old. As per the counsel, even if the appellant was 40 years old on that date, the fact of the matter is that the accident took place on 22.11.1992 and at that time his age was more than 38 years and it could not have been taken to be 39 years.

I find this to be correct. Consequently, I hold that the factor be determined after taking the age of 38 years.

The second argument is that no penalty has been awarded even though the employer not only did not pay any compensation rather they took the false plea to deny the claim of the appellant.

I find this to be correct. Consequently, I impose penalty of 50% of the awarded amount.

Appeal stands allowed and the award is modified accordingly.

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

March 26, 2018

ashish

**(AJAY TEWARI)
JUDGE**

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No