

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

461

FAO No.190 of 1997 (O&M)

Date of Decision : 05.04.2018

Prem Poultry Farm

..... Appellant

Versus

Ram Singh

..... Respondent

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present :- Mr. Ashok Sharma, Advocate
for the appellant.

None for the respondent.

AJAY TEWARI, J. (Oral)

This appeal has been filed against the judgment and order dated 28.10.1996 passed by the Commissioner, Ambala/Panchkula under the Workmen's Compensation Act, 1923 allowing an application filed by the respondent and awarding a sum of Rs.50,000/- odd as compensation for the amputation of four fingers and half thumb portion of the right hand of the respondent.

The case of the respondent was that he was employed with the appellant and, on the fateful day when he was working on the toka machine one Hari Singh who was also an employee of the respondent started the engine suddenly without warning as a result of which his hand was caught in the machine and he lost his four fingers and half thumb portion of the right hand.

The case of the appellant on the other hand was that the respondent had taken the contract of white washing the boundary wall of the poultry farm and was not employed by him nor the accident had taken place on the toka machine and, in any case there was no occasion for the respondent to be present near the toka machine. The Commissioner noticed that the appellant had not denied that Hari Singh was an employee or that he was present at the time of the accident and then went on to hold that the best witness to corroborate the case of the appellant would have been Hari Singh who was not examined.

The Commissioner further perused the attendance register which was placed on record by the appellant and expressed doubt about the authenticity of the same because he noticed that the signatures of Hari Singh which appeared on different sheets were discrepant and the thumb impressions of the other employees seem to have been freshly affixed. In the result, the Commissioner held that the relationship of employer-employee was established and awarded the compensation.

Learned counsel for the appellant has not been able to explain why Hari Singh was not examined by the appellant and consequently I am of the opinion that the reasoning of the Commissioner was correct that the best witness would have been Hari Singh who was not examined.

Learned counsel for the appellant has also not been able to dispel the suspicious circumstances accompanying the attendance register which have been enumerated by the Commissioner.

In the circumstances, I find no merit in the arguments.

Consequently, the appeal is dismissed.

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

(AJAY TEWARI)
JUDGE

05.04.2018

Pooja sharma-I

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No