

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

462

FAO No. 206 of 1997
Date of decision: 18.04.2018

Sukrampal Singh

...Appellant

Vs.

M/s Baldev Electric Corporation

...Respondent

CORAM: HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr. Mohit, Advocate
for Mr. R.A. Sheoran, Advocate
for the appellant.

Mr. Naresh Prabhakar, Advocate
for the respondent.

AJAY TEWARI, J. (ORAL)

This appeal has been filed against the order of the Commissioner passed under the Workmen's Compensation Act, dismissing the claim application filed by the appellant.

The claim of the appellant is that he was employed with the respondent as a general purpose *Mechanic cum Mason* and on the fateful day when he was repairing something at the premises of the respondent, he got his eye injured and ultimately blinded in one eye.

The case of the respondent, on the other hand, was that the appellant was not his employee but a freelancer. He also denied that the accident took place at the premises of the respondent. The

Commissioner decided the claim petition against the appellant for two

reasons. Firstly, one employee of the respondent had appeared who had denied that the appellant was ever a co-employee with him. A register was also produced which shows list of employees which was signed by other co-employee but the name of the appellant did not figure in the said list.

In these circumstances, the Commissioner held that the appellant had not been able to prove the preponderance of probability in his favour.

Learned counsel has argued that for such jobs in the small place where the appellant lives, there is normally no written record and therefore, the Court should have accepted the verbal testimony of the appellant. Even though I accept the argument that a written contract of employment is not a *sine qua non*, but in the circumstances of the present case, the best one can hold is that this is a case where there is 50% chance that the appellant is correct but there is also 50% chance that the respondent could be correct. Since I am not able to held preponderance of probability in favour of the appellant, the appeal is dismissed.

Since the main case has been decided, pending civil miscellaneous, if any, shall be disposed of.

April 18, 2018

Poonam (II)

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No