

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

-.-

FAO 1361 of 1996 (O&M)

Date of decision: 24.01.2020

Mohinder

.....Appellant

Versus

Jarnail Singh alias Jaildar

.....Respondent

Coram: Hon'ble Mrs. Justice Rekha Mittal

-.-

Present: Mr. Saurabh Kapoor, Advocate
for the appellant

Mr. Naveen Dahiya, Advocate
for the respondent

-.-

Rekha Mittal, J. (Oral)

Challenge in the present appeal has been directed against order dated 02.11.1995 passed by the Commissioner under the Workmen's Compensation Act, Karnal whereby application for grant of compensation in respect of injuries including amputation of left hand during the course of employment with respondent, has been dismissed primarily on the ground that the appellant does not fall within the purview and ambit of workman under Section 2 (1)(n) of the Employee's Compensation Act, 1923 (in short, the Act.

The plea of claimant is that he was employed as a Field Labourer and sustained injuries during the course of employment. Neither in claim application nor in his testimony, the applicant had raised a plea that

he sustained injuries while working on Toka Machine which was driven by steam or other mechanical power or electricity.

Section 2(1)(n) of the Act says that any person who is employed in farming by tractor or other contrivances driven by steam or other mechanical power or by electricity.

Counsel for the appellant has relied upon judgment of this Court ***Joginder Singh vs Naranjan Singh, 1968 ACJ 393***, wherein the Court rejected contention that cutting of chaff would not come within the phrase “farming”. It was held in para 4 quoted thus:-

“4. *I am unable to agree with these contentions. In my opinion, all operations which a farmer necessarily engaged it would be covered by the phrase “farming”. It is not merely the ploughing of land by tractors or other contrivances driven by steam or other mechanical power or by electricity which alone is covered. A farmer while farming has to find fodder for his cattle and also engages in various other pursuits intimately connected with the ploughing of land. For instance carting manure on a mechanically propelled vehicle could not be ruled out and held to be not a farming operation. The crux of the matter is that a farmer who is engaged in agricultural pursuits and is using tractors or other contrivances which are driven by steam or mechanical power or electricity is covered in case he engages a workman in those pursuits. If the accident is caused by such tractors or contrivances, it will surely fall within clause (xxix). I see no escape from it. The learned counsel has been unable to cite any authority which supports his contention.”*

A reading of aforesaid extract does not indicate that it has been

held therein that a farming operation without use of steam or other mechanical power or electricity would also be covered within the purview and ambit of Section 2(1) (n) of the Act. In the given circumstances, the appellant cannot derive any advantage to his contention from the referred authority.

No other point has been raised.

For the foregoing reasons, finding no merit, the appeal fails and is accordingly dismissed. No order as to costs.

(Rekha Mittal)

Judge

24.01.2020

Mohan Bimbura

Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No