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

FAO-1449-1999**Date of decision : 18.11.2025**

JAG RAM

....Appellant

Versus

H.S.E.B. & OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Naveen Daryal, Advocate
for the appellant.

Mrs. Sehej Sandhawalia, Advocate
for the respondents.

PANKAJ JAIN, J. (ORAL)

Challenge is to the order dated 28.12.1998 passed by Commissioner under the Workmen's Compensation Act, 1923 (now known as 'Employee's Compensation Act, 1923), dismissing the claim application filed by the appellant.

2. Appellant-claimant was working as a Lineman. He claims to have suffered permanent disability to the extent of 30% in an accident arising out of and during the course of employment.

3. As per the claimant, he along with Zile Singh was on duty when a message was received regarding electric breakdown in Sainik School Kunjpura. When claimant along with his co-employee Zile Singh reached Kunjpura, they found that the line was in order. It however went out of



order again. The electricity was cut off. He saw a PVC wire hanging. In attempt to remove the same, the appellant/claimant came in contact with a live wire which led to his electrocution resulting in burn injuries on his hand and foot.

3. The employment is not in dispute. The Commissioner held that the applicant met with an accident during the course of his employment with the respondents yet dismissed the claim application, observing as under:

“The contention of the respondent is that the applicant and other staff members were negligent in not observing necessary safety and precautions. The applicant himself failed to observe necessary precautions in touching the 11 K.V. Line. Therefore, he met with this accident due to his own negligency thus not entitled to receive any compensation under the workman compensation act 1923. In support of their contention they had produced the evidence of RWI, RW II, who stated on oath that the applicant touched the wire with naked hands. During the course of his cross examination the applicant himself has admitted that the board had given the safety measures tools. Handgloves and plause. He admitted that the caught the wire with naked hands although handgloves was with him and he did not make use of the plyer. From the evidence produced by the respondent and the admission of the applicant that he touched the wire with naked hands. It is emerged that the accident occurred due to the negligency of the applicant because he had admitted that at the time of accident he was having the handgloves and other tools. He however, had asserted that on 11000 K.V. such tools did not work but he had failed to produce any document as well as evidence to this effect that the accident had not taken place due to his negligency. I hold that applicant met with an accident on 09.02.1995 due to his own negligency. Therefore he is not entitled to claim compensation at



par provision of sec. 3(ii) (iii) of the W.C. Act, 1923. The claim application is therefore rejected.”

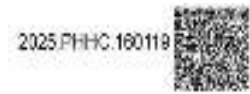
4. In the considered opinion of this Court, Commissioner erred in dismissing the application holding that the claimant suffered injuries on account of his own negligence. Trite it is that the 1923 enactment deals with accidents arising out of and during the course of employment. The concept is based upon ‘strict liability’. There is no room for assessing contributory negligence.

5. In view of above, the order passed by the Commissioner, cannot be sustained and the same deserves to be set aside.

6. Disability certificate of the appellant is on record as Exhibit AW A-1. The injuries suffered by the appellant/claimant, read as under:

“Post burn deformity, contraction of both hands with loss of grip power with amputation of left little finger.”

7. The aforesaid injuries have been assessed to have caused 30% permanent disability to the appellant. In the light of ratio of law laid down by Four Judges Bench of Supreme Court in the case of **Pratap Narain Singh Deo v. Srinivas Sabata, (1976) 1 SCC 289**, it is the functional disability that has to be assessed. The appellant was serving as Lineman. The claimant having lost grip power of both the hands, the same is assessed as 100%. He was 45 years of age at time of accident. The date of accident is



05.02.1995. Accordingly, the compensation payable to the appellant, is recomputed as under:

$$\text{Rs.}1000 \times 169.44 \times 50/100 = \text{Rs.}84,720/-$$

- 8. Claimant shall also be entitled for 12% interest on the awarded compensation in terms of Section 4A of 1923 Act, for the period commencing from 30 days after the date of accident i.e., 30 days after 05.02.1995 till the date of actual realization.
- 9. He will also be entitled for penalty @ 50% of the awarded compensation along with interest @ 7% per annum from the date i.e. 30 days after the accident till the date of actual realization.
- 10. The appeal is accordingly, allowed.
- 11. Pending application, if any, shall also stands disposed off.

November 18, 2025
Dpr

(Pankaj Jain)
Judge

Whether speaking/reasoned

:

Yes/No

Whether reportable

:

Yes/No