



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

140

FAO-3656-2010 (O&M)

Date of decision : 21.01.2025

Bhupinder Singh

..... Appellant

versus

M/s. Zodiac Maritune Agencies Ltd. and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Munish Kumar Garg, Advocate and
Mr. Yuwan Singla, Advocate
for the appellant.

Mr. Manoj Khanna, Advocate (through V.C.) and
Ms. Aakriti Mittal, Advocate
for the respondent.

PANKAJ JAIN, J. (Oral)

1. Counsel for the appellant has raised only one contention i.e. with respect to the wages being considered for quantifying the compensation payable to the appellant under the Workmen's Compensation Act, 1923 (now known as the Employee's Compensation Act, 1923).

2. Counsel for the appellant is not in a position to dispute that the compensation payable under the 1923 Act is quantified under Section 4 of the Act which reads as under:-

“4. Amount of compensation.- (1) Subject to the provisions of this Act, the amount of compensation shall be as follows, namely:--

(a) where death results from the injury : an amount equal to fifty per cent. of the monthly wages of the deceased *[employee] multiplied by the relevant factor; or an amount of *[one lakh and twenty thousand rupees], whichever is more; (b) where permanent total disablement results from the injury : an amount equal to sixty per cent. of the monthly wages of the injured *[employee] multiplied by the relevant



factor; *[one lakh and twenty thousand rupees], whichever is more;

*[Provided that the Central Government may, by notification in the Official Gazette, from time to time, enhance the amount of compensation mentioned in clauses (a) and (b).]

Explanation I.--For the purposes of clause (a) and clause (b), "relevant factor", in relation to a *[employee] means the factor specified in the second column of Schedule IV against the entry in the first column of that Schedule specifying the number of years which are the same as the completed years of the age of the *[employee] on his last birthday immediately preceding the date on which the compensation fell due.

Explanation II .- Omitted by Act 45 of 2009.

(c) where permanent partial disablement result from the injury:

(i) in the case of an injury specified in Part II of Schedule I, such percentage of the compensation which would have been payable in the case of permanent total disablement as is specified therein as being the percentage of the loss of earning capacity caused by that injury; and

(ii) in the case of an injury not specified in Schedule I, such percentage of the compensation payable in the case of permanent total disablement as is proportionate to the loss of earning capacity (as assessed by the qualified medical practitioner) permanently caused by the injury;

Explanation I.--Where more injuries than one are caused by the same accident, the amount of compensation payable under this head shall be aggregated but not so in any case as to exceed the amount which would have been payable if permanent total disablement had resulted from the injuries.

Explanation II.--In assessing the loss of earning capacity for the purpose of sub-clause (ii), the qualified medical practitioner shall have due regard to the percentages of loss of earning capacity in relation to different injuries specified in Schedule I;

(d) where temporary disablement, whether total or partial, results from the injury : a half monthly payment of the sum equivalent to twenty-five per cent. of monthly wages of the *[employee], to be paid in accordance with the provisions of sub-section (2).

(1A) Notwithstanding anything contained in sub-section (1), while fixing the amount of compensation payable to a *[employee] in respect of an accident occurred outside India, the Commissioner shall take into account the amount of compensation, if any, awarded to such *[employee] in accordance with the law of the country in which



the accident occurred and shall reduce the amount fixed by him by the amount of compensation awarded to the *[employee] in accordance with the law of that country.]

*[(1B) The Central Government may, by notification in the Official Gazette, specify, for the purposes of sub-section (I), such monthly wages in relation to an employee as it may consider necessary.]

(2) The half-monthly payment referred to in clause (d) of sub-section (1) shall be payable on the sixteenth day --

(i) from the date of disablement where such disablement lasts for a period of twenty-eight days or more,

or

(ii) after the expiry of a waiting period of three days from the date of disablement where such disablement lasts for a period of less than twenty-eight days; and thereafter half-monthly during the disablement or during a period of five years, whichever period is shorter:

Provided that--

(a) there shall be deducted from any lump sum or half-monthly payments to which the *[employee] is entitled the amount of any payment or allowance which the *[employee] has received from the employer by way of compensation during the period of disablement prior to the receipt of such lump sum or of the first half-monthly payment, as the case may be; and

(b) no half-monthly payment shall in any case exceed the amount, if any, by which half the amount of the monthly wages of the *[employee] before the accident exceeds half the amount of such wages which he is earning after the accident.

Explanation.--Any payment or allowance which the *[employee] has received from the employer towards his medical treatment shall not be deemed to be a payment or allowance received by him by way of compensation within the meaning of clause (a) of the proviso.

*[(2A) The employee shall be reimbursed the actual medical expenditure incurred by him for treatment of injuries caused during course of employment.]

(3) On the ceasing of the disablement before the date on which any half-monthly payment falls due there shall be payable in respect of that half-month a sum proportionate to the duration of the disablement in that half-month.

(4) If the injury of the *[employee] results in his death, the employer shall, in addition to the compensation under sub-section (1), deposit with the Commissioner a sum of *[not less than five thousand rupees]



for payment of the same to the eldest surviving dependant of the
*[employee] towards the expenditure of the funeral of such
*[employee] or where the *[employee] did not have a dependant or
was not living with his dependant at the time of his death to the
person who actually incurred such expenditure.]
*[Provided that the Central Government may, by notification in the
Official Gazette, from time to time, enhance the amount specified in
this sub-section.”

- 3. Section 4(1)(B) specifically provides the ceiling for the monthly wages to be considered. Counsel for the appellant does not dispute that for the concerned period, the notified wages were Rs.4,000/- and 50% thereof Rs.2,000/- was considered.
- 4. In view thereof, this Court does not find any reason to interfere in the well reasoned order dated 30.10.2009 passed by the Commissioner.
- 5. Consequently, the present appeal is dismissed.
- 6. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(PANKAJ JAIN)
JUDGE

21.01.2025
Dinesh

Whether speaking/reasoned :	Yes
Whether Reportable :	No