



126

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

FAO-627-2025 (O&M)

Date of decision : 01.04.2026

NEW INDIA ASSURANCE CO. LTD

....Appellant

Versus

SABIR AND ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Vinod Gupta, Advocate
for the appellant.

Mr. Lovish Jain, Advocate and
Mr. Divij Datt, Advocate
for respondent No.1.

PANKAJ JAIN, J. (ORAL)

On oral request made by counsel for the parties, the main case is taken on Board today itself for hearing.

2. Insurance Company is in appeal aggrieved of the order dated 28.10.2024 passed by Commissioner under the Employee's Compensation Act, 1923 (hereinafter referred to as '1923 Act').

3. The claim has been filed by an injured-workman, who was employed as a cleaner on an insured vehicle bearing registration No.HR-38/AA-5275 with respondent No.2. On 19.12.2022, the vehicle is said to have met with an accident in which the claimant was injured and was rendered crippled. The medical expert assessed that the claimant has been



rendered permanently disabled to the extent of 40%. PW3 Dr. Vikram Dagar, Ortho Surgeon, proved the injuries suffered by the claimant and testified that the applicant will not be able to run or walk, climb stairs or even sit in a squatting position, and thus would not be able to perform his duties as a cleaner as he won't be able to walk without the help of stick.

4. The Commissioner thus assessed the functional disability of the injured/claimant as 100% and accordingly awarded compensation of Rs.18,34,650/-.

5. Mr. Gupta has assailed the order passed by the Commissioner. He contends that the Commissioner erred in taking the functional disability of the claimant as 100% despite the fact that as per the medical expert, claimant was rendered disabled only to the extent of 40%. He submits that it is not a case wherein the injured-workman has been rendered incapacitated from pursuing any vocation to earn his livelihood. He further submits that the Commissioner erred in awarding interest @ 12% per annum for the period commencing from the date of accident till the date of order which is in teeth of the mandate of Section 4A of 1923 Act.

6. I have heard counsel for the parties and have carefully gone through records of the case.

7. The injuries suffered by the claimant in the accident involving insured vehicle on which he was employed as a cleaner, is not in dispute. The injuries and the consequential disability suffered by the injured-workman were proved by examining Dr. Vikram Dagar, Ortho Surgeon



(PW3), who was member of the Medical Disability Board. In his testimony, the medical expert specifically stated that the applicant would neither be able to run or walk fast and shall not be able to walk throughout his life without the help of stick. In these circumstances, the Commissioner assessed his functional disability as 100%. Resultantly, this Court finds no reason to interfere in a well reasoned finding recorded by the Commissioner as the same is strictly in terms of ratio of law laid down by Supreme Court in the case of **Pratap Narain Singh Deo v. Srinivas Sabata, (1976) 1 SCC 289**, wherein the Four Judges Bench, observed as under:

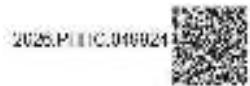
“5. The expression "total disablement" has been defined in section 2(1)(l) of the Act as follows:

""total disablement" means such disablement, whether of a temporary or permanent nature, as incapacitates a workman for all work which he was capable of performing at the time of the accident resulting in such disablement."

It has not been disputed before us that the injury was of such a nature as to cause permanent disablement to the respondent, and the question for consideration is whether the disablement incapacitated the respondent for all work which he was capable of performing at the time of the accident. The Commissioner has examined the question and recorded his finding as follows:

"The injured workman in this case is carpenter by profession....By loss of the left hand above the elbow, he has evidently been rendered unfit for the work of carpenter as the work of carpentry cannot be done by one hand only."

This is obviously a reasonable and correct finding. Counsel for the appellant has not been able to assail it on any ground and it does not require to be corrected in this appeal." ”



8. However, Mr. Gupta is right in contending that in terms of the mandate of Section 4A, the Commissioner should have awarded interest not from the date of accident but for the period commencing from 30 days after the date of accident till the date of actual realization.
9. The impugned award is accordingly modified. The claimant is entitled to interest @ 12% per annum for the period commencing from 30 days after the date of accident i.e., 30 days after 09.12.2022 till the date of actual realization.
10. Rest of the award is maintained.
11. The instant appeal is disposed off.
12. Pending application, if any, shall also stand disposed off.

April 01, 2026

Dpr

Whether speaking/reasoned

Whether reportable

(Pankaj Jain)

Judge

: Yes/No

: Yes/No