



126 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No.1810 of 2020 (O&M)
Date of decision : 11.02.2026.

XEN SWITCHYARD MTC DIVISION TDL TPS HPGCL PANIPAT

....Appellant

Versus

KUNDAN LAL

...Respondent

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. R.S. Longia Advocate for the appellant.

Mr. Sanjeev Kodan, Advocate (Amicus) with
Mr. Ajay Bansal, Advocate for the respondent.

PANKAJ JAIN, J. (ORAL)

CM-5408-CII-2020

This is an application filed under Section 5 of Limitation Act seeking condonation of delay of 53 days in filing the instant appeal.

For the reasons recorded in the application, this Court is satisfied that the applicant/appellant has made out a sufficient cause for condonation of delay.

Consequently, the present application is allowed. The delay of 53 days in filing the instant appeal is hereby condoned.

FAO No.1810 of 2020

Employer is in appeal aggrieved of the order dated 10.02.2012 passed by the Commissioner under the Workmen's Compensation Act, 1923



(now know as Employee's Compensation Act, 1923 and hereinafter referred to as '1923 Act') awarding injured-employee a compensation of Rs.2,56,824/- apart from interest of Rs.88,775/-.

2. The arguments raised by counsel for the appellant is that the claim petition itself is not maintainable. He submits that under 1923 Act, the compensation can be awarded either in the case of occupational disease or in the case of permanent disability and death. The appellant in the present case, though suffered injury but that did not lead to permanent disability as the claimant continued in his employment wherein he was awarded all service benefits and continued serving the employer. He submits that the present claim petition was filed by the claimant after his retirement having availed all terminal benefits. During the course of employment, claimant never produced disability certificate. Thus, Commissioner erred in allowing the claim petition which was not even maintainable. He further submits that from the certificate also, it is evident that the disability suffered is not permanent and the same was never proved, but was merely tendered in evidence.

3. Per contra, Mr. Kodan submits that the issue w.r.t. delayed filing of the claim petition has also travelled up to this Court in FAO No.3827 of 2012. He further submits that the issue: '*whether the claim petition can be maintained even if the injured-claimant continued to be in the employment on the same job?*', is no more *res integra* and has been answered by this Court in the case of '**Madan Lal Papneja vs. State of**



Haryana and others’, 2010(14) RCR(Civil) 154 and ‘Naresh Kumar vs. Kartar Singh and others’, 2014(37) RCR(Civil) 70. He submits that permanent disability suffered by the claimant, stands proved. Injury during the course of employment is not in dispute. The claimant who was serving as Foreman injured his backbone in an accident arising out of and during the course of employment. The disability having crippled the claimant, he is entitled for compensation as granted by the Commissioner.

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

5. The argument raised by counsel for the appellant stems out of the haughtiness of the officers who think that the continuation of employment of an injured-employee, is at their mercy. State is governed by law. The employee continued to be in employment not at the mercy of the officers, but for the reason he was entitled under law. The objective for granting compensation under 1923 Act has been spelled out in Statement of Objects and Reasons of the 1923 Act, which read as under:

The general principles of workmen's compensation command almost universal acceptance, and India is now nearly alone among civilised countries in being without legislation embodying those principles. For a number of years the more generous employers have been in the habit of giving compensation voluntarily, but this practice is by no means general. The growing complexity of industry in this country, with the increasing use of machinery and consequent danger to workmen, along with the comparative poverty of the workmen themselves, renders it



advisable that they should be protected, as far as possible from hardship arising from accidents.

An additional advantage of legislation of this type is that by increasing the importance for the employer of adequate safety devices, it reduces the number of accidents to workmen in a manner that cannot be achieved by official inspection. Further, the encouragement given to employers to provide adequate medical treatment for their workmen should mitigate the effects of such accidents as do occur. The benefits so conferred on the workman added to the increased sense of security which he will enjoy, should render industrial life more attractive and thus increase the available supply of labour. At the same time, a corresponding increase in the efficiency of the average workman may be expected. A system of insurance would prevent time burden from pressing too heavily on any particular employer.

After a detailed examination of the question by the Government of India, Local Governments were addressed in July 1921, and provisional views of the Government of India were published for general information. The advisability of legislation has been accepted by the great majority of Local Governments and of employers' and workers' association and the Government of India believe that public opinion generally is in favour of legislation.

In June 1922, a committee was convened to consider the question. This committee was composed, for the most part of members of the Imperial Legislature. After considering the numerous replies and opinions received by the Government of India, the committee was unanimously in favour of legislation and drew up detailed recommendations regarding the lines which in its opinion such legislation should follow. The Bill now presented follows these recommendations closely. A number of supplementary provisions have been added where necessary, but practically no variations of importance have been made.

The Bill contains two distinct proposals. In Chapter II modifications are made in the ordinary civil law affecting the liability of employers for the damages in respect of injuries



sustained by their workmen; these clauses will operate only in actions before the ordinary civil courts. The main part of the Bill makes provisions for workmen's compensation and sets up special machinery to deal with claims falling under this category.

Both parts of the Bill, however, apply to the same classes of workmen. If the scope of the employers' liability clauses was made wider than the scope of the workmen's compensation provisions, there would be considerable danger of a great increase in litigation. The classes included are those whose inclusion was recommended by the committee, and are specified in Schedule II. Two criteria have been followed in the determination of the classes to be included-

- (1) that the Bill should be confined to industries which are more or less organised;
- (2) that only workmen whose occupation is hazardous should be included.

The general principle is that the compensation should ordinarily be given to workmen who sustained personal injuries by accidents arising out of and in the course of their employment. Compensation will also be given in certain limited circumstances for disease. The actual rates of compensation payable are based on the unanimous recommendation of the committee. They are in every case subject to fixed maxima, in accordance with the committee's recommendations. It should be remembered, however, that the more highly paid workmen will be enabled in cases to which the employers' liability clauses will apply, to obtain damages on a scale considerably in excess of the maximum fixed for workmen's compensation.

A consistent endeavour has been made to give as little opportunity for disputes as possible. Throughout the Bill in the definitions adopted the scales selected, and the exceptions permitted the great aim has been precision in order that in as few cases as possible should the validity of a claim for compensation or the amount of that claim be open to doubt. At the same time, on the unanimous recommendation of the committee provision has been



made for special Tribunal to deal cheaply and expeditiously with any disputes that may arise, and generally to assist the parties in a manner which is not possible for the ordinary civil courts.

(emphasis supplied)

6. A bare perusal thereof would reveal that the compensation to the employees working in hazardous environment was contemplated to make the jobs in Industries lucrative and attractive despite all the risks involved. The same is based upon strict liability of the employer.
7. Admittedly, in the present case the injured/victim suffered backbone injury. For the reason of service rules though he continued to be in job, but the fact that he was rendered crippled, cannot be denied.
8. In view thereof, this Court finds no merit in the present appeal. The same is ordered to be dismissed with Rs.50,000/- as costs.
9. Pending application, if any, shall also stands disposed off.

February 11, 2026
Dpr

(Pankaj Jain)
Judge

Whether speaking/reasoned : Yes
Whether reportable : Yes