

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

**Reserved on 15th of January, 2026
Pronounced on 19th of March, 2026
Uploaded on 19th of March, 2026**

Whether only operative part of the judgment is pronounced? **No**
Whether full judgment is pronounced? **Yes**

FAO No.1611 of 1997

HanumanAppellant

Versus

Super Slate & CompanyRespondent

CORAM: HON'BLE MR JUSTICE PANKAJ JAIN

Present: Mr. Nipun Verma, Advocate
for the appellant.

Mr. Amandeep Rana, Advocate
for the respondent.

PANKAJ JAIN, J.

Present appeal is directed against order, dated 21.04.1997 passed by the Commissioner under the Workmen's Compensation Act, 1923 (now known as the Employee's Compensation Act, 1923 and hereinafter referred to as '1923 Act').

2. Appellant filed claim application seeking compensation on account of the injury suffered by him in an accident arising out of and during the course of his employment with respondent.

2.1. As per the claimant, he was employed with respondent for a monthly salary of Rs.1,290/-. On 22.08.1995 while working on Machine No.4 with Om Parkash, Foreman, in Shift B, he suffered an injury and lost

his left eye. He was rendered permanently disabled and as per Schedule I appended to the 1923 Act, he needs to be compensated for 40% permanent disability suffered by him.

3. The claim application was resisted by the respondent disputing employer-employee relationship.

4. Vide impugned order, Commissioner found that the claimant failed to prove his employment with the respondent. There being no proof of employment, the Commissioner dismissed the claim application filed by the appellant.

5. Learned counsel for the appellant has assailed the findings recorded by the Commissioner. He submits that there is an overwhelming evidence produced on record by the Claimant in form of the document Exhibit AW-1/1 which was signed by Vijay Somani. The best person to rebut the same was Vijay Somani, who was managing the affairs of the respondent/employer. Vijay Somani opted not to appear before the Commissioner. Thus, the Tribunal was bound to draw adverse inference against the employer, yet the claim application filed by the claimant was dismissed.

6. Per contra, counsel for the respondent submits that the workman miserably failed to prove his employment. The two witnesses examined by the appellant, failed to prove his employment. The Commissioner after analysing the evidence concluded that there were major contradictions

between testimony of AW-1 and AW-2, and rightly dismissed the claim application.

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

8. As per the case of the claimant, he was working in 'B Shift' under the supervision of Om Parkash, Foreman, on the fateful day. While Om Parkash was removing bearing from shaft of machine No.4 with the help of chisel and hammer, a tiny particle broke from chisel and hit the left eye of the applicant. He lost his eye. In order to prove his case, claimant examined Dharminder son of Ram Singh as AW-1. As per AW-1, he worked with the respondent in the year 1992 and the claimant was employed with respondent even prior thereto. Claimant himself appeared as AW3. He reiterated his version as spelled out in the claim application. He produced Exhibit AW-1/1 which is a certificate issued under the signatures of V. Somani, Manager on 23.08.1995. The contents thereof, read as under:

“It is certified that Sh. Hanuman S/o Sh. Bikha Singh R/o Mayan, Dist. Rewari, Edge Cutting Machine Operator who was working with M/s Super Slate & Co. Khol, Prop. of Sh. Ashok Somany met with an accident on 22nd August, 1995 at about 7.30 PM (4 to 12 shift) and got a minor injury on his left yet in my presence.

Sd/-
Manager

9. Respondent in order to rebut the evidence adduced by the claimant, examined RW-1 Bhata Ram son of Mata Din, who admitted that

Vijay Somani and Ashok Somani are two brothers. The factory gets supply of stone from Kund Mines. Ashok Somani is licensee of mines, who supplies stone in the establishment owned by Vijay Somani.

9.1. On being asked as to who was operating machine on 22.08.1995, RW-1 feigned ignorance despite the fact that he claimed that he was employed as Foreman with the respondent since the year 1987. He, however, admitted that on 22.08.1995, Om Parkash, Foreman was on duty in B Shift. RW2 Madan Sharma appeared as attorney holder of Vijay Somani. He claimed that he has brought Wage Register for the period commencing from November, 1993 till October, 1995 and claimed that the name of the claimant does not figure in the same. He admitted in his cross-examination that the company does not give appointment letter to any employee. He admitted in his cross-examination that Super Slate and Foundry are sister concerns and that Ashok Somani and Vijay Somani are brothers. He also admitted that he has not brought any record of Super Slate and Company. Despite Vijay Somani being hale & hearty he opted not to appear in the witness-box.

10. In the considered opinion of this Court, the Commissioner completely misread the evidence on record. It is admitted case of the respondent that they did not issue appointment letter. Though RW-2 claimed that he has brought the wage register for the month commencing from November, 1993 till October, 1995, but later on admitted that the same does not relate to Super Slate and Company. RW-1 admitted that Om Parkash,

Foreman, was working in B Shift on the fateful day which lends credence to version of the claimant. In order to prove his employment and the injury, claimant produced document AW-1/1. It was proved to have been written by Vijay Somani, who opted not to enter into the witness-box. Thus, employer despite being in possession of best piece of evidence to rebut AW-1/1 withheld the same.

11. In these circumstances, the Commissioner ought to have drawn adverse inference against employer and should not have ignored overwhelming evidence produced on record by the claimant.

12. In view of above, this Court finds that the findings recorded by the Commissioner on Issue No.1 cannot be sustained and are hereby set aside. Claimant is held to be an employee under respondent who suffered injury in an accident arising out of and during the course of employment.

13. Disability of the appellant in the accident arising out of the employment, stands proved. In terms of Schedule I appended to 1923 Act, he has suffered 40% disability for having lost his left eye. Accordingly, he is entitled to compensation in terms of Section 4 in vogue on the date of accident, 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:-

<i>(a) where death results from the injury</i>	<i>an amount equal to [fifty per cent.] of the monthly wages of the deceased workman multiplied by the relevant factor;</i>
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an amount of [fifty thousand
rupees], whichever is more;

or

*an amount of [sixty thousand rupees],
whichever is more;*

Explanation II.- Where the monthly wages of a workman exceed [two thousand rupees], his monthly wages for the purposes of Clause (a) and clause (b) shall be deemed to be [two thousand rupees] only,

xxxxx”

40% of 60/100 X 1290 X 215.28 (Age 26 years) = **Rs.66,650.68/-**.

15. The claimants shall also be entitled for interest @ 12% per annum in terms of the provisions as contained under Section 4A of the Act

16. The claimants are also held entitled to penalty which shall be 50% of the compensation computed by this Court herein-above. The penalty amount shall bear interest @ 7% from the date of passing of the award till the date of actual realization.

March 19, 2026
Dpr

(Pankaj Jain)
Judge

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No