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

FAO No.404 of 2025 (O&M)

Date of decision : 12.01.2026

SURENDER GARG @ SURENDER

....Appellant

Versus

SURENDER KUMAR AND ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

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

PANKAJ JAIN, J. (ORAL)

CM-1287-CII-2025

This is an application filed under Section 5 of Limitation Act seeking condonation of delay of 226 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 226 days in filing the instant appeal is hereby condoned.

FAO No.404 of 2025 (O&M)

Employer is in appeal aggrieved of order dated 29.02.2024 passed by the Commissioner under Employee's Compensation Act, 1923



(hereinafter referred to as 'the 1923 Act') whereby the respondent/claimant has been awarded total compensation of Rs.9,95,966/-.

2. As per the claimant, the appellant is running a business of providing network cable services in Palwal City. The claimant was employed with the respondents to attend the complaints of broken network. On 22.05.2015, a complaint was received w.r.t. a broken cable in court premises. The claimant along with other employees under the supervision of Prem Shankar, Supervisor, was sent to attend to the complaint. On reaching the court complex, it was found that the cable wire was broken from the two places and the same was lying on the iron grill of the boundary wall of the residential complex in court premises. The injured was provided with an aluminium ladder. While he was removing the cable from the grill under the supervision of Supervisor, he suffered an electric shock and fell down on the ground which led to 100% disability of the claimant.

3. Though respondents denied employer-employee relationship however, no evidence was led by the respondent/appellant to rebut the case pleaded and proved by the claimant.

4. The Commissioner accordingly awarded compensation of Rs.9,45,888/- apart from treatment expenses of Rs.45,078/-.

5. Mr. Verma counsel for the appellant has assailed the findings recorded by the Commissioner. He has raised two fold submission. He submits that as per the claimant, the accident took place on 22.05.2015



whereas the present claim petition was filed on 25.02.2021. There is an inordinate delay of 6 years. He relies upon Section 10 of the 1923 Act to submit that the limitation prescribed by the statute for filing claim petition being two years, the claim petition was filed beyond the same, should not have been entertained by the Commissioner. Further, he submits that there is no documentary evidence to prove employment of the victim with the appellant and thus Commissioner erred in returning finding on Issue No.1 w.r.t. relationship of employer-employee between the parties and thus order passed by the Commissioner is not sustainable in the eyes of law.

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

7. In order to appreciate the contention raised by Mr. Verma, Section 10 of the 1923 Act needs to be perused carefully. The same reads as under:

10. Notice and claim.- (1) No claim for compensation shall be entertained by a Commissioner unless notice of the accident has been given in the manner hereinafter provided as soon as practicable after the happening thereof and unless the claim is preferred before him within two years of the occurrence of the accident or in case of death within two years from the date of death:

Provided that where the accident is the contracting of a disease in respect of which the provisions of sub-section (2) of section 3 are applicable, the accident shall be deemed to have occurred on the first of the days during which the *[employee] was continuously absent from work in consequence of the disablement caused by the disease:



Provided further that in case of partial disablement due to the contracting of any such disease and which does not force the *[employee] to absent himself from work, the period of two years shall be counted from the day the *[employee] gives notice of the disablement to his employer:

Provided further that if a *[employee] who, having been employed in an employment for a continuous period, specified under sub-section (2) of section 3 in respect of that employment, ceases to be so employed and develops symptoms of an occupational disease peculiar to that employment within two years of the cessation of employment, the accident shall be deemed to have occurred on the day on which the symptoms were first detected:

Provided further that the want of or any defect or irregularity in a notice shall not be a bar to the entertainment of a claim—

(a) if the claim is preferred in respect of the death of a *[employee] resulting from an accident which occurred on the premises of the employer, or at any place where the *[employee] at the time of the accident was working under the control of the employer or of any person employed by him, and the *[employee] died on such premises or at such place, or on any premises belonging to the employer, or died without having left the vicinity of the premises or place where the accident occurred, or

(b) if the employer or any one of several employers or any person responsible to the employer for the management of any branch of the trade or business in which the injured *[employee] was employed had knowledge of the accident from any other source at or about the time when it occurred:

Provided further that the Commissioner may entertain and decide any claim to compensation in any case notwithstanding that the notice has not been given, or the claim has not been preferred, in due time as provided in this subsection, if he is satisfied that the



failure so to give the notice or prefer the claim, as the case may be, was due to sufficient cause.

(2) Every such notice shall give the name and address of the person injured and shall state in ordinary language the cause of the injury and the date on which the accident happened, and shall be served on the employer or upon any one of several employers, or upon any person responsible to the employer for the management of any branch of the trade or business in which the injured *[employee] was employed.

(3) The State Government may require that any prescribed class of employers shall maintain at their premises at which *[employees] are employed a notice book, in the prescribed form, which shall be readily accessible at all reasonable times to any injured *[employee] employed on the premises and to any person acting bona fide on his behalf.

(4) A notice under this section may be served by delivering it at, or sending it by registered post addressed to, the residence or any office or place of business of the person on whom it is to be served, or, where a notice-book is maintained, by entry in the notice-book.

8. Bare perusal of the aforesaid provision would reveal that even though the statute prescribes for a period of 2 years as limitation to prefer claim petition but at the same time it clothes the Commissioner with power to condone the delay in appropriate facts and circumstances.

9. In the present case, the accident is dated 22.05.2015. Victim preferred CWP No.7789 of 2016 before this Court. The same was withdrawn with liberty to seek statutory remedy vide order dated 29.01.2020. This Court takes notice of the fact that in the month of March,



2020 whole of the world experienced Covid-19 Pandemic and all the judicial *foras* were closed.

10. In these circumstances, the victim could file the claim petition only on 25.02.2021. Hence, this Court finds that it is a fit case where the Commissioner rightly condoned the delay exercising his powers under Section 10 of the 1923 Act.

11. So far as the plea raised by Mr. Verma w.r.t. absence of employer-employee relationship between the parties is concerned, the same is misconceived.

12. Victim Surender Kumar appeared as PW-1. He himself admitted in his statement that he was employee of the appellant. That apart, the most initial version in form of FIR records the factum of there being employer-employee relationship between the appellant as well as the victim.

13. Mr. Verma is not in position to dispute that the appellant failed to lead any evidence to rebut overwhelming evidence produced on record by the claimant.

14. In view of above, this Court finds no reason to interfere in the pure findings of fact recorded by the Commissioner which is based upon threadbare analysis of the evidence on record.

15. In terms of Section 30, employer in order to maintain appeal under the 1923 Act, is required to show substantial question of law involved.



16. Finding no question of law, much less substantial question of law involved in the present appeal, the same is ordered to be dismissed.
17. Pending application, if any, shall also stands disposed off.

January 12, 2026
Dpr

(Pankaj Jain)
Judge

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No