IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No.1854 of 1997 (O&M)

GULAB SINGH ...Appellant

Vs

PARTNER/MANAGER, CHHATAR CHEMIC ALS (PRIVATE) LIMTED. AND ANR. ...Respondents

1	The date when the judgment was reserved	09.07.2026
2	The date when the judgment is pronounced	24.07.2026
3	The date when the judgment is uploaded on the website	24.07.2026
4	Whether only operative part of the judgment is pronounced or whether the full judgment is pronounced	Full
5	The delay, if any, of the pronouncement of full judgment, and reasons thereof.	Not applicable

CORAM: *HON'BLE MR. JUSTICE HARKESH MANUJA*

Present: Mr. Maneet Kaushik, Advocate
for the appellant.

Mr. Brij Bhushan Sharma, Advocate for
Mr. Deepak Suri, Advocate
for respondent No.2/Insurance Company.

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HARKESH MANUJA, J.

1. The present appeal under Section 30 of the Workmen's Compensation Act, 1923 (for short, "the Act"), has been preferred by the claimant-appellant assailing the award dated 01.04.1997, passed by the learned Commissioner under the Workmen's Compensation Act, Karnal, whereby compensation to the tune of Rs.21,995/-, along with interest @6% per annum, penalty amounting to 50% of the compensation and costs of Rs.1,000/-, came to be awarded on account of injuries sustained by the appellant during the course of his employment.

2. Briefly stating, the appellant was employed as a mechanic/mistry with respondent No.1. On 20.06.1995, while repairing the gear box of a stationary machine, the foreman of respondent No.1 inadvertently started the machine, as a

consequence whereof both the legs of the appellant got entangled in the chain of the machine and suffered grievous crush injuries. He remained under treatment and ultimately suffered **20% permanent disability**, duly certified by the competent medical practitioner. The employer admitted the relationship of employer and employee as well as the occurrence of the accident arising out of and during the course of employment, but sought to shift the liability upon respondent No.2-Insurance Company on the ground that the establishment was duly insured under the provisions of the Act.

3. Upon appreciation of the pleadings and evidence led by the parties, the learned Commissioner held that the accident arose out of and during the course of employment and that the appellant suffered 20% permanent disability. Consequently, compensation of Rs.21,995/- was awarded by taking the monthly wages at Rs.1,000/- and applying fifty per cent thereof, besides awarding interest @6% per annum and penalty. Aggrieved thereof, the present appeal has been preferred.

4. Learned counsel appearing on behalf of the appellant contended that the learned Commissioner committed manifest errors in law while determining the quantum of compensation. It was argued that the award came to be passed on 01.04.1997, much after the amendment carried out in the Workmen's Compensation Act with effect from 15.09.1995. Consequently, the amended provisions ought to have been applied while computing compensation. He further contended that the Commissioner erroneously adopted fifty per cent of the monthly wages for computing compensation, whereas in cases of permanent disablement, compensation is required to be calculated by taking sixty per cent of the monthly

wages. It was also submitted that the learned Commissioner erred in awarding interest @6% per annum despite the amended provisions prescribing interest @12% per annum.

5. Per contra, learned counsel appearing on behalf of respondent No.2-Insurance Company supported the impugned award to the extent it determined the percentage of disability and the liability of the insurer. However, it was contended that the disability certificate relied upon by the appellant could not have been acted upon in the absence of examination of the doctor who had issued the said certificate. According to the learned counsel, since the author of the disability certificate was not examined, the disability assessed therein could not be treated as proved in accordance with law. It was, thus, argued that the appellant failed to establish the extent of permanent disability by leading cogent medical evidence.

6. I have heard learned counsel for the parties and perused the paper-book of the case.

7. At the outset, it deserves to be noticed that the finding recorded by the learned Commissioner with regard to the occurrence of the accident having arisen out of and in the course of the appellant's employment is not under challenge and, therefore, has attained finality. However, learned counsel appearing on behalf of respondent No.2 has questioned the finding relating to the appellant having suffered 20% permanent disability by contending that the disability certificate could not have been relied upon in the absence of examination of the doctor who issued the same. The aforesaid contention deserves to be rejected.

7.1 A perusal of the impugned award reveals that the learned Commissioner has recorded a categorical finding that the appellant had suffered **20% permanent disability** on the basis of the disability certificate (Ex.B-1) issued by a qualified medical practitioner. Significantly, the disability certificate was tendered in evidence without any objection from either of the respondents. Neither in the written statement nor during the course of proceedings was the genuineness or correctness of the disability certificate specifically disputed. Equally, no request was made by the respondents for referring the appellant to any Medical Board or for obtaining a fresh medical opinion. The respondents also did not choose to lead any medical evidence in rebuttal to demonstrate that the disability assessed by the treating doctor was either exaggerated or erroneous. Furthermore, it is well settled that proceedings under the Employees' Compensation Act are summary in nature and are intended to provide expeditious relief to an injured workman. The Commissioner is not bound by the strict rules of evidence applicable to civil suits and is required to adjudicate the claim on the touchstone of preponderance of probabilities, keeping in view the beneficial object of the legislation. A disability certificate issued by a qualified medical practitioner, which remains substantially unchallenged and unrebutted, constitutes a valid piece of evidence and cannot be discarded merely because its author was not examined, particularly when the opposite party neither objected to its exhibition nor sought to discredit the same by leading any contrary medical evidence. In ***Golla Rajanna and others v. Divisional Manager and another, (2017) 1 SCC 45***, it was held that the Commissioner is the final authority on appreciation of evidence and findings recorded on the basis of material available on record ordinarily do not warrant interference unless shown to be perverse or based on no evidence.

7.2 In the present case, once the disability certificate was admitted in evidence without objection and no attempt was made by the respondents either to summon the medical practitioner for cross-examination or to produce any expert medical evidence in rebuttal, the objection sought to be raised at the appellate stage loses all significance. The Insurance Company cannot be permitted to challenge the evidentiary value of the disability certificate after having failed to dispute its genuineness before the learned Commissioner. Consequently, this Court finds no infirmity in the finding recorded by the learned Commissioner accepting the appellant's permanent disability at 20%, and the contention raised on behalf of the Insurance Company is accordingly rejected.

8. Further, the impugned award reveals that while assessing compensation, the learned Commissioner adopted the statutory wage ceiling of Rs.1,000/- and proceeded to calculate compensation by taking fifty per cent thereof. In the considered opinion of this Court, the said approach cannot be sustained. The learned Commissioner passed the impugned award on 01.04.1997, by which time the amendments introduced in the Workmen's Compensation Act enhancing the wage ceiling for computation of compensation had already come into force. Consequently, the computation ought to have been undertaken by applying the amended statutory provisions. The aforesaid issue is no longer res integra. The Hon'ble Supreme Court in ***Civil Appeal Nos. 16904-09 of 1996*** titled as ***New India Assurance Company Limited v. V.K Neelakandan and others,*** decided on 06.11.1996 has held that where adjudication under the Act takes place after enforcement of the amendment, the amended provisions governing computation of compensation and payment of interest are liable to be applied. The legislative object behind the amendment being beneficial in nature, the provisions

deserve to receive a liberal construction so as to advance the purpose of the enactment and to secure just compensation to the injured workman. Relevant paragraph thereof is reproduced hereunder:-

> *"3. It is not disputed that Section 4 of the Act was amended in 1995 by Amendment Act 30 where-under the deemed income has been increased from Rs 1000 to Rs 2000. Learned counsel for the Insurance Company has vehemently contended that since the accident took place in the year 1981, the law operating on that date is applicable and as such the heirs of the workmen are not entitled to the benefit of the amendment. We do not agree with the learned counsel. We are finally determining the rights of the workmen today. The Act is a special legislation for the benefit of the labour. Keeping in view the scheme of the Act we are of the view that the only interpretation which can be given to the amendment is that if any benefit is conferred on the workmen and the said benefit is available on the date when the case is finally adjudicated, the said benefit should be extended to the workmen. We, therefore, hold that the compensation to be paid to the heirs of the workmen has to be calculated on the basis of the actual wages - Rs 1800 - drawn by them. Learned counsel for the Insurance Company has worked out the amount to be paid to the heirs taking the monthly wages to be Rs 1800. The details are as under:*
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> *Workmen Amount awarded by the Commissioner Amount worked out taking monthly wages of Rs 1800 as per the amended Act as directed by this Hon'ble Court (Rupees) (Rupees) 1. Ganeshan 89,600.00-2,16,000.00-2. Smt Janki 84,716.00-1,90,611.00-3. Smt Pushpa 89,084.00-2,00,439.00-4. P.T Babu 90,552.00-2,03,742.00-5. Smt Usha 91,416.00-2,05,686.00-6. Pradeepan 91,416.00-2,05,686.00"*

8.1 In the light of the aforesaid legal position, the approach adopted by the learned Commissioner in applying the unamended statutory wage ceiling of

Rs.1,000/- for the purpose of computation of compensation cannot be sustained. Since the impugned award came to be passed on **01.04.1997**, i.e. after the amendment enhancing the wage ceiling had come into force, the compensation ought to have been determined by taking the amended wage ceiling of **Rs.2,000/-**. The learned Commissioner, therefore, fell in error in computing the compensation on the basis of the pre-amended provisions of the Act.

9. Apart therefrom, the Commissioner has also committed an error in applying fifty per cent of the monthly wages while determining compensation. In cases involving permanent disablement, compensation is required to be computed by taking **sixty per cent of the monthly wages**, subject to the relevant factor prescribed in Schedule IV and the percentage of loss of earning capacity. The adoption of fifty per cent by the Commissioner has resulted in an erroneous determination of compensation and has materially prejudiced the appellant.

10. In the present case, the appellant was 23 years of age on the date of the accident. As per Schedule IV to the Workmen's Compensation Act, 1923, the relevant factor applicable to a workman aged 23 years is **219.95**. Since the applicable statutory monthly wage for the purpose of computation is **Rs.2,000/-**, sixty per cent thereof comes to **Rs.1,200/-**. Applying the relevant factor of **219.95**, the total compensation works out to **Rs.2,63,940/-** (Rs.1,200 × 219.95). As the appellant suffered **20% loss of earning capacity**, he is entitled to compensation to the extent of **20% of Rs.2,63,940/-, i.e. Rs.52,788/-**. Accordingly, the compensation payable to the appellant is reassessed at **Rs.52,788/-**.

11. The learned Commissioner has also awarded interest @6% per annum on the compensation amount. The said direction is equally unsustainable. By virtue of the amendment introduced through Act 30 of 1995, which came into force with effect from 15.09.1995, Section 4A(3) of the Act mandates payment of interest at the rate of **12% per annum** or at such higher rate not exceeding the maximum lending rate of any scheduled bank, as may be specified by the Central Government, where the employer defaults in depositing the compensation within one month from the date it fell due. Since the impugned award came to be passed after the aforesaid amendment had come into force, the appellant is entitled to interest in terms of the amended provisions. The Hon'ble Supreme Court in ***V.K. Neelakandan's case (supra)*** has categorically held that where the claim is finally adjudicated after the amendment, the amended provisions governing both computation of compensation and payment of interest are liable to be applied. Consequently, the award of interest @6% per annum cannot be sustained and deserves to be modified to **12% per annum**.

12. Resultantly, the present appeal is **allowed**. The impugned award dated **01.04.1997**, passed by the learned Commissioner under the Workmen's Compensation Act, Karnal, is modified to the extent that the compensation payable to the appellant is enhanced from **Rs.21,995/- to Rs.52,788/-**. The appellant shall further be entitled to interest on the aforesaid amount at the rate of **12% per annum** in accordance with Section 4A(3) of the Workmen's Compensation Act, 1923, payable from the date of expiry of 30 days from the date of accident till the date of its actual realization. The direction regarding penalty, as contained in the impugned award, shall remain unaltered. The respondent-Insurance Company is directed to deposit the enhanced amount of compensation together with the accrued interest before the learned Commissioner within a period of **eight weeks** from the date of receipt of a certified copy of this judgment, failing which the amount shall carry the same rate of interest till realization. Pending application(s), if any, shall also stand disposed of.

10. Pending miscellaneous application(s), if any, shall also stand disposed of.

(HARKESH MANUJA)
JUDGE

July 24, 2026
Atik

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