
(2014) 08 P&H CK 0067

In the Punjab And Haryana At Chandigarh

Case No : F.A.O. No. 3096 of 2011 (O&M)

Mehraj

APPELLANT

Vs

Laldeen and Others

RESPONDENT

Date of Decision : 29-08-2014

Acts Referred:

Employees Compensation Act, 1923 — Section 4, 4-A

Citation : (2015) 145 FLR 165 : (2015) 177 PLR 449

Hon'ble Judges : Rajiv Narain Raina, J

Bench : Single Bench

Advocate : Diwan S. Adlakha, Advocates for the Appellant; M.S. Virk, Advocates for the Respondent

Judgement

Rajiv Narain Raina, J.—Having heard the learned counsel for the parties at some length, this Court finds that the impugned order deserves to be sustained insofar as assessment of loss of earning capacity is concerned. The Commissioner cannot be faulted when he assesses 80% loss of earning capacity for amputation of the right leg of the claimant below the knee. The appellant was a farm labour. He has thus no plausible case for enhancement of compensation by increase of percentage of loss of earning capacity. Element of interest payable has however to be fastened on the Insurance Company and not on the insured employer/respondent in view of the Supreme Court dicta laid down in *The Oriental Insurance Company Ltd. Vs. Siby George and Others*, . Therefore, the liability to pay interest is ordered to be shifted on the Insurance Company and to be paid from the date of the personal injury suffered in the accident and the award is modified accordingly. So far as penalty and interest thereon is concerned that remains the liability of the employer and is not to be paid by the insurer company and would be discharged by the former due to default and the unjustified delay in payment of compensation as prescribed by section 4-A of the Act. Interest on penalty for default in payment would also accrue at the rate of 12% simple from the date it fell due and is so ordered. There can hardly be any dispute as to the application of the schedule in relation to the injury in this case

in working out the compensation. The formula has been applied arithmetically in the proper manner.

2. Learned counsel for the appellant submits that 9% interest has been awarded on the compensation which is on the lower side. Section 4 of The Employees' Compensation Act, 1923 guards interest up to 12% simple on the amount of compensation determined and, therefore, the award is further modified to read that interest would run @ 12% from the date of injury.

3. No further ground for interference was pressed at the hearing. The appeal stands partially allowed to the extent of enhanced interest on compensation and penalty and is disposed of with the above modifications made to the award. After recalculation of the compensation package in the light of the order the amount be disbursed by the Commissioner to the claimant without any further delay.