



**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Civil Misc. Appeal No. 2652/2018

Karnawat Marbles, National Highway No. 8, Piparda Through
Gunsagar Karnawat S/o Shri Devendra Karnawat, Aged 75 Years,
R/o Kishore Nagar, Tehsil And District Rajsamand.

-----Appellant

Versus

Sohan Singh S/o Shri Himmat Singh, B/c Chauhan Rajput, R/o
Prempura, Tehsil And District Rajsamand.

-----Respondent

For Appellant(s)	:	Mr. S.D. Purohit Mr. R.S. Mali.
For Respondent(s)	:	Mr. Nikhil Ajmera.

HON'BLE MR. JUSTICE ARUN MONGA

Order (Oral)

02/05/2025

1. The instant appeal has been preferred by the appellant, *inter-alia*, against the judgment / award dated 20.07.2017 passed by learned Commissioner, Employees Compensation Act, Rajsamand in WC Case No.131/2015 (44/2012), vide which an award of Rs.1,43,070/- was passed in favour of the respondent.
2. Brief facts first. Respondent - Sohan Singh, filed an application for compensation on 09.12.2011 before the Workmen Compensation Commissioner, Rajsamand under Section 3 of the Employees Compensation Act, 1923. He claimed that he had been working as a Machine Operator for the appellant's establishment for the past two years, operating machines such as JCB, Dumper, & Loader, and was earning a monthly salary of ₹8,000/-.



2.1 According to his application, while working on 16.06.2011, he sustained grievous injuries when a revolving stone struck his left hand, resulting in the amputation of fingers. He was initially treated at Sharma Hospital, Kankroli, and later at Geetanjali Hospital, Udaipur. He alleged that due to the injury, he became 100% incapacitated and unable to work. He sought compensation of ₹13,50,000/- along with a 50% penalty on the employer and interest @ 12% per annum from the date of the accident.

2.2 The appellant, however, denied all allegations. He refuted the respondent's claim of employment and stated that his establishment had no JCB, Dumper, or Loader. The appellant maintained that the respondent was never employed there and therefore not entitled to any compensation or salary. He contended that Sohan Singh had come to visit an acquaintance, Nand Kishore, without permission and was injured after colliding with a crane due to his own negligence. On humanitarian grounds, the appellant arranged for his treatment but denied any employer-employee relationship. It was further submitted that the respondent's name did not appear in the Employees State Insurance register or the attendance register of the establishment.

2.3 During the proceedings, the respondent examined himself and one Ram Lal, and produced documents to support his claim. The appellant, Gunsagar Karnawat, also appeared and submitted documentary evidence in defense. After hearing both sides and examining the material on record, the Tribunal awarded ₹1,43,070 to the respondent, assessing a 30% disability and considering his age as 42 years. Hence, the instant appeal.



3. The learned Tribunal framed four issues, translated version of which is reproduced herein below :-

“1. Whether the applicant was employed as a machine operator in the opposite party's marble company on 16.06.2011, and whether he suffered a serious injury to the fingers of his left hand due to an accident that occurred during and in the course of such employment?

Applicant

2. Whether the injuries sustained by the applicant have had an impact on his earning capacity?

Applicant

3. Whether the applicant was 42 years old at the time of the accident and earning a monthly salary of ₹8,000?

.... Applicant

4. Relief?”

4. After analyzing the material available on record, the learned tribunal decided all the issues in favour of the applicant- Sohan Lal (respondent/claimant herein).

5. Learned counsel for the appellant, inter alia, argues that to succeed under Section 3 of the Workmen's Compensation Act, 1923, a workman must prove that the injury occurred during the course of employment. The respondent failed to establish such a connection. The appellant consistently denied employing the respondent at Karnawat Marbles, and the respondent failed to produce any documentary proof—such as an appointment letter or salary receipts—to support his claim. His statements regarding the period of employment were contradictory, further weakening his credibility.

5.1. He would argue that the appellant, on the other hand, presented attendance and salary registers (Ex.M/1) that did not include the respondent's name. The Tribunal erred in relying on



the respondent's unreliable oral testimony, contrary to Section 92 of the Indian Evidence Act.

5.2. On the quantum, learned counsel for the appellant argues that even if compensation were justified, the Tribunal miscalculated it. The respondent's disability was certified at only 10% (Ex.P/28), yet the Tribunal wrongly assessed it at 30%. No age proof or medical expert evidence was submitted to support the injury claim. The Tribunal's decision was thus based on assumptions, including that the respondent might have worked as a daily wage laborer—an assertion never made by the respondent himself. The award should, therefore, be set aside, he contends.

6. In the aforesaid backdrop, I have heard the rival contentions of the learned counsels which are more or less in the same lines as the grounds taken in the pleadings and perused the case file. I shall now proceed to deal with the merits and demerits thereof and render my opinion based on the discussion and reasoning contained hereinafter.

7. First and foremost, perusal of the impugned judgment / award reveals that Sohan Singh/claimant suffered injury while working as a machine operator at the opposite party's establishment on June 16, 2011. While loading stones onto a trolley, a stone shifted and crushed his left hand, resulting in the amputation of three fingers. His co-workers took him to the hospital, and he underwent surgery and treatment costing ₹50,000. Sohan Singh submitted documentary and witness evidence supporting his claim of employment and injury during work. The appellant herein denied employing him, though lamely, claiming he was a visitor who entered without permission.



However, evidence including a police report, medical records, disability certificate, and witness testimony supported the applicant's version. It was also rightly noted by the Tribunal that daily wage workers might not appear in the appellant/employer's attendance records. Based on the evidence adduced, the Tribunal returned finding that the claimant/victim was found to be an employee and sustained the injury during the course of employment. The injury resulted was assessed as 30% loss of earning capacity, based on the medical evidence. At the time of the accident, Sohan Singh was 42 years old and earned ₹4,030/month (as per minimum wage standards). Compensation for 30% loss was calculated as ₹1,29,476 coupled with medical expenses as ₹13,594 and thus total compensation for an amount of ₹1,43,070 along with interest @12% per annum with effect from 16.06.2011 under the Employees' Compensation Act.

8. I am in agreement with the findings arrived at by the learned Tribunal. There seems no perversity or illegality in the findings of facts given by the learned Tribunal on appreciation of evidence. No interference is thus called for to disturb the finding of facts recorded by the learned Tribunal.

9. The Tribunal's findings have been arrived at after evaluating both oral and documentary evidence, and no material irregularity has been demonstrated by the appellant to warrant this court's indulgence.

10. The learned Tribunal rightly accepted the respondent Sohan Singh's version of events as more credible. His account of the accident is consistent, corroborated by witness Ramlal, and supported by medical and police records. The medical evidence



(MLC – Ex.1, X-ray – Ex.8, Disability Certificate – Ex.28) confirms the nature and extent of the injuries, while the Roznamcha (Police Daily Diary) and related documents (Ex.6 & 7) reflect that a report was promptly made and that the employment and injury occurred at the appellant's premises. The lack of any rebuttal or response to the registered notice (Ex.2-4) further casts doubt on the appellant's belated denial of the employment relationship.

11. The learned Tribunal's reasoning regarding the non-inclusion of the respondent's name in the wage and attendance registers is sound. It is a common industrial practice that casual or daily wage workers are often not reflected in formal employment records. The appellant's assertion that no such workers were employed is an unsubstantiated defense. In contrast, the applicant's evidence, coupled with the police report explicitly referring to the place of accident as his workplace.

12. In the premise, the essential ingredients for entitlement to compensation under Section 3 of the Employees' Compensation Act, 1923 — namely, employer-employee relationship, and injury during the course of employment — were rightly held to be proved. The incident occurred at the worksite, during working hours, and was witnessed by co-workers. The employer's own admission that he arranged for treatment "on humanitarian grounds" further indicates an indirect acknowledgment of responsibility.

13. The Tribunal's assessment of a 30% loss of earning capacity is also legally correct. Even though the medical certificate mentions a 10% permanent physical disability, however, amputation of three fingers are deemed to cause certain



percentages of functional disability — here, correctly assessed as 30%.

14. The appeal in hand appears to be a mere attempt to evade statutory liability and does not disclose any valid ground for interference. Accordingly, the findings of the Tribunal are upheld. As an upshot, no grounds to interfere.

15. Dismissed accordingly.

16. Pending application(s), if any, shall stand disposed of.

(ARUN MONGA),J

1-DhananjayS/Rmathur/-

Whether fit for reporting : Yes / No