



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

FIRST APPEAL NO.277 OF 2020

1. Janardan Agarwal, Chairman)	
Bombay Rayon Fashion Ltd.)	
At Plot No. C-6/7,)	
MIDC Tarapur, Boisar,)	
Dist. Palghar – 401 506.)	
2. Bombay Rayon Fashion Ltd.)	
At Plot No. C-6/7,)	
MIDC Tarapur, Boisar,)	
Dist. Palghar – 401 506.)Appellants (Orig. Opponents)
V/s.		
Rajkumar Brijlal Singh Gond)	
Aged 27 yrs. Permanent Residence,)	
At House No.80, Sajapani, Zhara, Jahar,)	
Singrauli, M. P. 486 669.)	
Presently R/at : Santoshi Nagar,)	
Bhaiya Pada, Bhoisar (W),)	
Dist. Palghar – 401 506.)Respondent (Orig. Applicant)

Dr. D. S. Hatle a/w Mr. Deepak P. Jamsandekar for the appellants.
None for the respondent.

**CORAM : JITENDRA JAIN, J.
DATED : 23rd February 2026**

Judgment : -

1. This appeal is filed under Section 30 of the Employees' Compensation Act, 1923 ('EC Act') to challenge the order passed by the Commissioner for Workmen Compensation on 21 November 2017.

2. First proviso to Section 30(1) of the EC Act is worded negatively and it states that no appeal shall lie unless substantial question of law is

involved in the appeal.

3. The appellants (original opponents) in the synopsis has raised following four substantial questions of law :-

“1. Whether the Respondent is entitled unless he proves and aver that, he has sustained the injuries due to the accident, which arose out of and in the course of his employment?

2. When the doctor has issued the certificate to the extent of 38% disability being the Permanent Partial Disability, whether the Ld. Commissioner is right in granting the relief of compensation to the extent of 50%?

3. Whether the Ld. Commissioner is right in granting the interest to the Respondent from the date of accident as against one month after the date of accident?

4. Whether the Ld. Commissioner erred in concluding that, the Appellants have not proved their case, but it is the documentary evidence placed by the Respondent which did not prove the case for grant of any such percentage of compensation?

5. Such other points to be argued at the time of hearing.”

Question No.1

4. In the above question, the issue raised is whether the injuries arose out of and in the course of the employment. The Commissioner for Workmen Compensation has exhaustively dealt with this issue in paragraph 6 of internal page 6 of the impugned order, where the admission of opponent no.1 is recorded that the applicant was working with opponent no.1 and the accident occurred in the course of the employment. In my view, if the opponent has admitted these facts, then the issue of any question being raised on this ground cannot be accepted. Therefore, no substantial question of law arises and in any case, this would be a pure question of fact.

Question Nos.2 and 4.

5. Question Nos.2 and 4 deals with the conclusion of the Commissioner for Workmen Compensation on the percentage of the disability. The Commissioner for Workmen Compensation has arrived at functional disability of 50%.

6. The learned counsel for the original opponents states that in the cross- examination of the applicant, he has admitted that the accident happened on 17 February 2015 and he joined back the opponent-company in April 2015. It is his submission that since he has joined back within three months of the accident, the finding on the percentage of disability cannot be accepted and is perverse.

7. I have heard the learned counsel for the appellants.

8. In the cross examination, the respondent (original applicant) has admitted that he joined the company in April 2015. However in the cross examination, it is also borne out that because of the accident, he is suffering from severe bone pain and is unable to work. Furthermore, the applicant has led medical evidence which states the nature of injury which is head injury with R/tear bleeding, chest blunt trauma with fracture of right side Rib Nos. 2nd, 3rd, 4th, 5th and 7th. The applicant made a claim of 100% functional disability. However, the Commissioner for Workmen Compensation did not grant him 100% disability, but after considering the nature of injury and the medical evidence led by the applicant granted functional disability at 50%. It is recorded in the impugned order that the admitted position is that because of the accident, there was head injury and fracture of right side Rib Nos. 2nd, 3rd, 4th, 5th and 7th. The Commissioner for Workmen Compensation has also considered the medical evidence led by the opponent and given reason for not accepting the same.

9. In my view, whether the disability should be 100% or 50% or any other percentage is to be based on the evidence and the Commissioner for Workmen Compensation, in paragraph 7 with regard to issue no.3, has dealt with the same exhaustively and after considering all the evidence has come to a conclusion of 50% functional disability. In my view, on the percentage of disability, there does not arise any substantial questions of law *moreso* when all the evidence has been considered by the Commissioner for Workmen Compensation. Therefore, no substantial questions of law arises with regard to question nos.2 and 4.

Question No.3.

10. In question no.3. the period of interest has been disputed. It is the case of the opponents that the interest should be payable one month after the date of accident. Interest should be calculated after the expiry of one month from the date of the accident. The Commissioner for Workmen Compensation has granted interest from the date of accident.

11. Section 4A (3) of the EC Act provides that if there is a default in making payment of compensation within one month from the date it fell due then the Commissioner can direct employer to pay interest.

12. The provision of sub-section (3) of the EC Act empowering the Commissioner to levy interest states that if there is a default in making payment within one month, the Commissioner can direct employer to pay interest. In Section 4A of the Act, there is no provision stating that the interest will be calculated after the expiry of one month from the date it fell due. The period of one month is specified to empower the Commissioner to direct the employer to pay interest if the employer does not pay the amount within one month. Therefore, there is no case made out to contend that the period of interest would start after the expiry of one month from the date of

the accident. Therefore in my view, even on this count, no substantial question of law arises.

13. In view of above, the appeal filed by the opponent is dismissed. The Commissioner for Workmen Compensation is directed to release the amount deposited by the opponent no.1 to the applicant within eight weeks from today.

14. Copy of this order to be sent to the concerned Commissioner for Workmen Compensation.

(JITENDRA JAIN, J.)