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**Present:- Mr. Lokesh Sinhal Advocate Vs. Commissioner under the Workmen's Compensation Act 1923**

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**SooperKanoon Citation : [sooperkanoon.com/1066358](http://sooperkanoon.com/1066358)**

**Court : Punjab and Haryana**

**Decided On : Jul-29-2013**

**Appellant : Present:- Mr. Lokesh Sinhal Advocate**

**Respondent : Commissioner under the Workmen's Compensation Act 1923**

**Judgement :**

CR No.4369 o

1. IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH CR No.4369 of 2011 Date of decision: July 29, 2013 M/s Synergic Medical International, Sector 14, Gurgaon .....Petitioner Versus Commissioner under the Workmen's Compensation Act, 1923, Circle 3, Gurgaon and another .....Respondents  
CORAM: HON'BLE Mr.JUSTICE K.

KANNAN Present:- Mr.Lokesh Sinhal, Advocate for the petitioner.

Ms.Sharmila Sharma, Advocate and Ms.Sarita Jarora, Advocate for respondent No.2.

\*\*\*\* 1.

Whether reporters of local papers may be allowed to see the judgment ?.

Yes 2.

To be referred to the reporters or not?.

Yes 3.

Whether the judgment should be reported in the digest?.

Yes K.

Kannan, J (oral).1.

The petitioner was the respondent in a claim petition filed by the Workmen under the Workmen's Compensation Act seeking for compensation for an employment injury.

The employment injury was the result of a user of motor vehicle which gave rise to a cause of action for claim against the offending vehicle.

It appears that the case before the Motor Accident Claims Tribunal was disposed of and an award has been passed.

2. After securing the award the claimant makes out a claim also against his own employer for compensation under Archana Arora 2013.07.31 11:37 I am the author of this document High Court Chandigarh CR No.4369 o

2. the Workmen's Compensation Act.

The objection taken by the employer that the workman had already availed of compensation under the Motor Vehicles Act and therefore there was bar under Section 167 of the Motor Vehicles Act was rejected on a reasoning that the Act would bar a claimant for compensation if only it was made against the very same person and will not take away a right of a workman to make an independent case against the employer.

The reasoning is erroneous.

Section 167 of the Motor Vehicles Act reads as follows:- Option regarding claims for compensation in certain cases:- Notwithstanding anything contained in the Workmen's Compensation Act, 1923 (8 of 1923) where the death of, or bodily injury to any person gives rise to a claim for compensation under this Act and also under the Workmen's Compensation Act, 1923 the person entitled to compensation may without prejudice to the provisions of Chapter X claim such compensation under either of those Acts but not under both.

It is to ward off a claimant to double benefit and intended to restrict a claimant from adopting two different forums for compensation from the very same incident of motor accident.

If he has secured a compensation from one forum, his right gets extinguished by such a process and cannot be duplicated against the employer, although he may have if he has so opted to proceed against his own employer and not against the owner and insurer of the offending motor vehicle.

The Workmen's Compensation Commissioner ought to have accepted the objection and dismissed the claim petition as not maintainable in view of the statutory bar referred to above.

Archana Arora 2013.07.31 11:37 I am the author of this document High Court Chandigarh CR No.4369 o

3. 3.

The impugned order is set aside and the civil revision is allowed.

(K.

KANNAN) JUDGE July 29, 2013 archana Archana Arora 2013.07.31 11:37 I am the author of this document High Court Chandigarh

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