

**IN THE HIGH COURT OF HIMACHAL PRADESH AT
SHIMLA**

FAO (ECA) No. 183 of 2014

Reserved on: 09.09.2026

Date of decision: 16.09.2026

**Date of uploading on website:
16.09.2026**

Himi Devi & others	Versus	Appellants.
Secretary HPPWD & others		Respondents.

Coram

The Hon'ble Mr. Justice Sushil Kukreja, Judge.

¹ *Whether approved for reporting?*

For the appellants:	Mr. H.K.S. Thakur, Advocate.
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For the respondents:	Mr. Ankush Thakur, Deputy Advocate General.
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Sushil Kukreja, Judge.

The instant appeal is maintained by the appellants, who were petitioners/claimants before the learned Commissioner below (hereinafter referred to as “the petitioners/claimants”) against award dated 15.11.2013, passed by learned Commissioner, exercising Power under Employees Compensation Act, Shimla, H.P. (hereinafter referred to as “the learned Commissioner below”), in Case No. 21-2 of 2011/07, whereby the petition preferred by the petitioners/claimants under Section 22 of Workmen

¹ *Whether reporters of Local Papers may be allowed to see the judgment?*

Compensation Act (for short “the Act”) was dismissed.

2. Succinctly, the facts giving rise to the present appeal are that petitioners/claimants, i.e., Smt. Himi Devi wife of Shri Dassu Ram (deceased workman), Kumari Bhuneshwari and Kumari Reeta Devi and Master Harish Kumar, daughters and son of deceased workman, respectively, preferred a petition under Section 22 of the Act seeking compensation to the tune of Rs.2,75,655/- alongwith future interest @ 12% per annum. As per the petitioners, the deceased was working as daily waged Chowkidar with respondents No. 2 and 3 and on the intervening night of 20.11.2005/21.11.2005 he was in the store of PWD at Jalog, where he suddenly died. The petitioners averred that the deceased died during the course of his employment. At the time of the death of the deceased, he was drawing wages to the tune of Rs.2300/- per month and his age was 48 years. The petitioners also averred in their petition that the respondents had failed to pay compensation, as per the mandate of the Act, thus they are liable to pay compensation, penalty and interest @ 12%.

3. The respondents contested the claim petition by written statement, wherein preliminary objection qua

maintainability of the claim petition was raised. It was averred that petitioner No. 1 was neither wife of the deceased (workman) nor petitioners No. 2 to 4 were his children, which was evident from the Panchayat record. The death of deceased was not disputed in the manner pleaded by the petitioners. However, it was submitted that deceased died a natural death, therefore, the petition, preferred by the petitioners was liable to be dismissed.

4. On the basis of the pleadings of the parties, on 15.01.2008, the learned Commissioner below framed the following issues for determination and adjudication:

- “1. Whether the deceased is a workman within the meaning of the Act and accident arose out of or in the course of the respondent work/employment? OPP**
- 2. Whether the claimant is legally wedded wife of deceased and is entitled for the compensation under the provisions of W.C. Act? OPP**
- 3. Relief.”**

5. After hearing the learned counsel for the parties and considering the evidence on record, the learned Commissioner below dismissed the claim petition, hence the instant appeal preferred by the appellants (petitioners/claimants).

6. The instant appeal was admitted on the following

substantial questions of law:

- “1. Whether the Commissioner, Employees Compensation has erred in law in not appreciating the provisions of Section 2(1) d(ii) and Schedule-II of the Employees Compensation Act, 1923, by not considering the appellants as dependants of deceased and thus resulted in error of law apparent on face of record. If so its effect?”***
- 2. Whether the Commissioner, Employees Compensation has erred in law and fact in not appreciating the Provision of Section 3(1) of the Act b not considering the accident having taken place during the course of employment by mis-reading the evidence, thus resulting in wrong findings. If so its effect?”***

7. The learned counsel for the appellants contended that the learned Commissioner below has erred in holding that the petitioners/claimants are not entitled for compensation, because they do not fall in the category of dependents, as defined in Section 2(d) of the Act. He further contended that the deceased had died during the course of employment with the respondents and the learned Commissioner below has erred in holding that the petitioners/claimants are not entitled to compensation, as the deceased died a natural death.

8. Conversely, learned Deputy Advocate General for the respondents supported the impugned award and he contended that the impugned award is the result of proper appreciation of law and facts and the same does not need

any interference and the appeal, being devoid of merits, be dismissed.

9. I have heard the learned counsel for the appellants, learned Deputy Advocate General for the respondents and have carefully examined the entire record.

10. The first question which arises for consideration before this Court is whether the petitioners/claimants can be said to be dependants, as mentioned in Section 2(d) of the Act. The perusal of the material on record reveals that petitioner No. 1-Smt. Himi Devi is recorded as wife of one Rattnu Ram, who was the brother of the deceased and other petitioners were recorded as children of Rattnu Ram. As per the petitioners, there was a custom in their area that two brothers can have one wife and petitioner No. 1 was married to both brothers, i.e., Rattnu Ram and Dassu Ram. However, PW-1 Himi Devi (petitioner No. 1) deposed that she was married to Rattnu at first hand and after his death she was married to Dassu.

11. Petitioner-Smt. Himi Devi nowhere stated that how her marriage was solemnized with deceased Dassu after following necessary rituals applicable to Hindus. She has also not proved any custom prevalent in the area qua

her marriage with her brother-in-law after the death of her husband. Although PW-3 Laghnu Ram deposed that after the death of Rattnu, petitioner (Himi Devi) was married to Dassu, but nothing has been mentioned by this witness as to why this marriage was not recorded in the Panchayat. Admittedly, deceased Dassu Ram did not inform his department about his marriage with petitioner No.1. Therefore, in the absence of any cogent and satisfactory evidence on record, the learned Commissioner has rightly held that petitioner No. 1 has failed to prove that she was legally wedded wife of deceased Dassu. Hence, the petitioners cannot be said to be the dependants, as defined under Section 2(d) of the Act.

12. Now the next question which arises for consideration before this Court is whether the deceased had died during the course of his employment. RW-2 Yog Raj deposed that the deceased had died natural death. The post mortem report, Mark X-4, also confirms that the deceased had a natural death. There is no evidence on record to suggest that the death of the deceased was not natural and he died during the course of his employment. The petitioners have failed to prove on record any casual

connection between the death of the deceased and his employment, thus, the learned Commissioner below has rightly held that the petition filed by the petitioners was not maintainable. The substantial questions of law are answered accordingly.

13. In view of what has been discussed hereinabove, the impugned award passed by the learned Commissioner below does not need any interference and the instant appeal, being devoid of merits, deserves dismissal and is accordingly dismissed.

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

(Sushil Kukreja)
Judge

16th September, 2026
(virender)