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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
CNR No. DLHC015350612017
+ **FAO 56/2018 and CM APPL. 5768/2018**
NATIONAL INSURANCE CO LTD Appellant
Through: Mr. Pankaj Seth, Advocate

versus

VIMLA DEVI & ANR Respondents
Through: Appearance not given

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

% **ORDER**
31.08.2026

The matter is taken up today as the date of 27.08.2026 was declared a holiday vide Notification No.85/G-4/Genl.I/DHC dated 21.08.2026.

1. The present appeal has been preferred by the appellant/National Insurance Company Ltd. under Section 30 of the Employee's Compensation Act, 1923 (hereafter as "the Act") against the Award dated 25.07.2017 passed by the learned Commissioner, Employee's Compensation, District North-West, Delhi in Case No. CEC-D/NW/12/2016, whereby compensation was awarded in favour of respondent No.1.

2. As per facts noted in the impugned Award, the claim arose out of the death of Sh. *Gajendra Singh*, who was employed as a driver by respondent No.2 on vehicle bearing registration "*No. NL-01-L-7998/DL-01-7998*". On 07.05.2016, while the vehicle was returning from *West Bengal to Delhi*, the deceased suffered fatal injuries in an accident near *Durgawati, Village Rohua*. A FIR 213/2016 dated 07.05.2016 was also registered at *Durgawati Police Station*.



3. Respondent No.2- the employer filed a written statement wherein the employment of the deceased as a driver was admitted. It was further stated that the deceased was being paid wages @ Rs.10,000/- per month. The vehicle was admittedly insured with the appellant vide policy No. 360800/31/15/6300006321 which was valid from 31.03.2016 to 30.03.2017. The intimation of accident was also immediately given. The learned Commissioner, upon consideration of the evidence on record, awarded compensation in favour of respondent No.1.

4. Learned counsel for the appellant/Insurance Company assails the impugned Award primarily on the ground that the employer-employee relationship between the deceased and respondent No.2 was not established. It is submitted that there was no documentary evidence of employment or the vehicle in question was placed on record. Learned counsel also challenges the assessment of the deceased's income and his age in the absence of cogent evidence, and lastly disputes the award of interest at 12% per annum.

5. This Court has considered the aforesaid contentions and perused the record.

6. The learned Commissioner, on appreciation of the evidence, specifically noted that respondent No.2 had admitted that the deceased was employed by him as a driver when the accident occurred. The learned Commissioner further took note of the FIR, the statement of Sh. Arjun Joshi recorded by the police, post-mortem report and other documents placed on record including the copy of National permit, driving license of the deceased, fitness certificate of vehicle etc. and observed that the insurer had not disputed the authenticity of the said material. The contemporaneous



police record further corroborates the occurrence. The statement of Sh. *Arjun Joshi*, who was in the vehicle with the deceased, was recorded by the police on 07.05.2016. It records that the vehicle was proceeding from West Bengal towards Delhi and that, after the deceased parked the vehicle on the roadside near NH-2, *Village Rohua, Durgawati*, for attending to nature's call, he was hit by a bus while crossing the road. On the basis of the said statement, a case was registered at P.S. *Durgawati* vide Case No. 123/16 dated 07.05.2016 under Sections 279/304-A IPC. The learned Commissioner specifically noted that the appellant had neither disputed the authenticity of the statement of Arjun Joshi nor suggested that the FIR/police record was false or fabricated. The post-mortem report dated 07.05.2016, placed on record as, also corroborates the factum of death consequent upon the injuries sustained in the accident. The report records multiple ante-mortem injuries on the body of the deceased and, upon examination, opines that the death was due to haemorrhage and shock consequent upon the injuries. It further records that the time elapsed between death and post-mortem was within 24 hours. Thus, the medical evidence is consistent with the occurrence of a violent accident resulting in fatal injuries to the deceased. The learned Commissioner also specifically noted that the cause of death was borne out from the post-mortem report and that the appellant had not challenged its genuineness. On an overall appreciation of the evidence, the learned Commissioner concluded that the deceased was the driver of respondent No.2 and had suffered death arising out of and in the course of his employment. The challenge to the assessment of wages and age also does not merit interference. The learned Commissioner, while accepting the wages of the deceased @ Rs.10,000/- per month as claimed, restricted the



wages to Rs.8,000/- per month in terms of *Central Government S.O. 1258(E) dated 31.05.2010* and applied the relevant factor of 211.79 on the basis of the deceased's age being 28 years. The appellant has not demonstrated any perversity or patent error in the said determination. Similarly, the direction for payment of interest at 12% per annum was made by the learned Commissioner with reference to Section 4A of the Act, taking the date on which the compensation became due into consideration.

7. The learned Commissioner also specifically considered the appellant's contention regarding breach of the insurance policy on account of non-production of documents pursuant to the notice under Order XII Rule 8 CPC. It was held that mere non-reply to such notice would not, by itself, constitute a breach of the insurance policy and that the insurer had failed to establish any breach by cogent evidence. The learned Commissioner also found the issue regarding issuance and service of the notice to be unsatisfactory on the basis of the testimony of the insurer's witness.

8. So far as the challenge raised by the appellant to the finding regarding the employer-employee relationship is concerned, the learned Commissioner, upon appreciation of the evidence on record, has returned a categorical finding that the deceased was employed as a driver by respondent No.2. Significantly, respondent No.2 himself, in his written statement, admitted that the deceased was employed by him as a driver.

9. The scope of interference in an appeal under Section 30 of the EC Act, 1923 is limited, the aforesaid finding being one of fact, this Court would not ordinarily interfere with the same in an appeal under Section 30 of the Act unless the appellant is able to demonstrate that the finding is based on no evidence or suffers from perversity or an error of law. In Syed



Yakoob v. K.S. Radhakrishnan¹, the Supreme Court held that findings of fact arrived at by a tribunal upon appreciation of evidence cannot ordinarily be interfered with merely because another view of the evidence may be possible. In the present case, the appellant has failed to demonstrate any such perversity or patent error warranting interference with the finding returned by the learned Commissioner. In T.S. Shylaja v. Oriental Insurance Co. Ltd.², the Supreme Court reiterated that the requirement of a substantial question of law is a condition precedent for maintainability of an appeal under Section 30 of the Act and that findings of fact recorded by the Commissioner upon appreciation of evidence cannot be lightly interfered with. Similarly, in Golla Rajanna v. Divisional Manager³, the Supreme Court reiterated that the Commissioner is the final fact-finding authority under the Act.

10. The aforesaid principle is applicable to the present proceedings. In the present case, the appellant has failed to demonstrate that the findings returned by the learned Commissioner are based on no evidence, are perverse or suffer from any patent error of law. No substantial question of law arises for consideration.

11. Consequently, this Court finds no merit in the present appeal. The impugned Award dated 25.07.2017 does not warrant any interference and is accordingly upheld.

12. The present appeal, alongwith the pending application, is accordingly dismissed. The award amount be released to the respondent, if not already done.

¹ AIR 1964 SC 477

² (2014) 2 SCC 587

³ (2017) 1 SCC 45



13. A copy of this order be sent to the learned Commissioner for information and necessary record.

MANOJ KUMAR OHRI, J

AUGUST 31, 2026

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