

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 4402 of 2010 (O/M)
Date of decision : 20.3.2015

Haryana Government through Collector, Fatehabad and others
..... Appellants

Versus

Smt. Shoba Devi Respondent

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Gaurav Goyal, Assistant Advocate General,
Haryana, for the appellants.

Mr. R.S. Mamli, Advocate, for respondent.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

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KULDIP SINGH, J. (ORAL)

Challenged in the present appeal is to the order dated 11.3.2010, passed by the Commissioner under the Workmen's Compensation Act, 1923, Sirsa Circle.

Dinesh Kumar, who was stated to be employed under the present appellants as a Labourer, was working at Bhattu Centre, District Fatehabad, for covering wheat bag stag with the *tripal*. He was getting wages of Rs. 3,500/- per month. He was stated to be working since year 2001. On the fateful day i.e. 18.6.2007, the deceased, while covering the wheat bags stag on the direction of

Food and Supplies Inspector Bhim Singh, fell down from the height of stag of bags due to slipping of the legs. He sustained grievous injuries and ultimately died on 20.6.2007. The post mortem of the dead body was got conducted. The police was informed about the accident and the deceased was 28 years of age at the time of his death.

Written statement filed before the Commissioner under the Workmen's Compensation Act, Sirsa Circle, the relationship of employer and employee was denied. However, the factum of accident was not denied.

The learned Commissioner under the Workmen's Compensation Act, Sirsa Circle, after framing the issues, ordered the payment of Rs. 4,48,312/- (Rs. 3,63,965/- plus interest of Rs. 84,347/-) as compensation to the claimant/applicant.

The respondents being not satisfied with the impugned order dated 11.3.2010, passed by the learned Commissioner under the Workmen's Compensation Act, Sirsa Circle, have come up in appeal before this Court.

The contention of the learned Assistant Advocate General for the State is that the deceased was the employee of the contractor. However, a perusal of the file shows that no such plea was taken before the Commissioner under the Workmen's Compensation Act, Sirsa Circle and any evidence beyond the pleading is liable to be ignored. For the same reason, Ex.R1 cannot

be taken into consideration being beyond pleadings. The accident has not been denied. The deceased was working as a labourer under the supervision of the respondents. He was covering the wheat bags stag with *tripal* and fell down from height and lost his life. There is convincing evidence on file. The manner and circumstances resulting in the death of Dinesh Kumar (workman) are not disputed. It being so, I do not find any ground to interfere with the impugned order dated 11.3.2010, passed by the Commissioner under the Workmen's Compensation Act, 1923, Sirsa Circle.

The appeal is accordingly dismissed.

(KULDIP SINGH)
JUDGE

20.3.2015
sjks