

206 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No.2156 of 2012 (O&M)
Date of Decision: June 29, 2015

ICICI Lombard General Insurance company Ltd. Appellant

vs.

Smt. Asgari and another Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. Rajneesh Malhotra, Advocate for the appellant.

Mr. Ashish Gupta, Advocate for respondent No.1.

- 1. Whether Reporters of Local Newspapers may be allowed to see the judgment?*
- 2. To be referred to the Reporters or not?*
- 3. Whether the judgment should be reported in the Digest?*

Kuldip Singh J.(Oral)

CM-9155-CII-2012

There is a delay of 165 days in filing the present appeal.

For the reasons mentioned in the application, delay of 165 days in filing the present appeal is condoned, subject to all just exceptions.

Application stands disposed of.

FAO-2156-2012

This appeal is directed against the order dated 26.07.2011 passed by the Commissioner under the Employee's Compensation Act, 1923, Mewat.

It was claimed before the Commissioner that on 20.08.2009, Deen Mohd. @ Deenu, aged about 53 years, who was working as a Driver on vehicle bearing registration No.HR-55J-2385 was hit by another vehicle bearing registration No.UP-77N-2004. As a result of which, Deen Mohd. @ Deenu died. In this regard, an FIR was lodged at Police Station Sachendi Sadar, Kanpur (Uttar Pardesh). The Commissioner after recording the evidence awarded a sum of ₹3,38,266/-(rupees three lac thirty eight thousand two hundred sixty six only), which was liable to be paid by respondent No.2-Insurance Company (appellant herein) within 60 days from the date of the order, failing which respondent No.2 shall be liable to pay further interest @ 12% per annum from the date of the order till the date of actual payment.

The Insurance Company has challenged the said Award on the ground that the employment of Deen Mohd. @ Deenu with the owner is not proved. Further the accident is not proved and that the interest is not liable to paid.

After going through the file, I find that in this case, the Cleaner has been examined as eye witness to prove the accident. Even though the man, who lodged the FIR was not examined but in the FIR it was clearly mentioned that the deceased was working as a driver on the alleged vehicle. Therefore, the accident as well as the employment of the deceased is proved. Since, the payment was not

made within time, therefore, there is no ground to interfere in the interest awarded by the Commissioner. Consequently, I do not find any merit in the present appeal and the same is accordingly dismissed.

June 29, 2015
sarita

(KULDIP SINGH)
JUDGE