

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 964 of 2012 (O/M)
Date of decision : 12.5.2015

Bajaj Allianz General Insurance Co. Ltd. Appellant

Versus

Smt. Samina and others Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Ms. Vandana Malhotra and Ms. Monika Jangra,
Advocates, for the appellant.

None for the respondents.

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)

The Insurance Company has filed this appeal against the order dated 22.6.2011, passed by the Commissioner under the Employee's Compensation Act, 1923, Mewat (in short 'the Commissioner').

As per the case of the applicants, Irfan, aged about 16 years was working as a cleaner on the tractor of respondent No. 1 (respondent No. 7 herein) bearing registration No. CG-04-DA-4337. During the course of employment, the deceased fell beneath the said tractor and died at the spot. The Commissioner awarded compensation to the tune of Rs. 5,78,850/-, to be paid by the

insurance company alongwith interest @ 12%, if the amount is not paid within 60 days from the date of order.

None is present on behalf of the respondents.

I have heard learned counsel for the insurance company and have also carefully gone through the file.

Learned counsel for the insurance company has argued that as per the ration card, the age of the deceased in the year 2009 was only 11 years. Since the ration case was issued in the year 2008, wherein his age was mentioned as 10 years, therefore, the deceased should not be employed as a cleaner. Hence, the insurance company is not liable to re-imburse the insured. However, the post mortem report of the deceased on file shows that the age of the deceased was 16 years. The doctor conducting the post mortem is the best person to assess the age of the deceased as the physical examination of the dead body is to be carried out. Therefore, age mentioned in the post mortem report is taken to be correct. It being so, the deceased was not a child labour. Accordingly, I do not find any illegality or infirmity in the impugned order dated 22.6.2011, passed by the Commissioner.

Appeal is accordingly dismissed.

(KULDIP SINGH)
JUDGE

12.5.2015
sjks