

**IN THE HIGH COURT OF PUNJAB AND HARYANA**

**AT CHANDIGARH**

**FAO No.189 of 2015 (O&M)**

**Date of decision: 02.07.2015**

**Smt.Giana Devi**

**..... Appellant**

**versus**

**Mahesh Kumar and others**

**.....Respondents**

**CORAM: Hon'ble Mr.Justice Kuldip Singh**

Present: Mr.Mani Ram Verma, Advocate for the appellant

- 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)**

This appeal is directed against the order dated 29.8.2014, passed by the Commissioner under the Employee's Compensation Act, Circle Bhiwani, vide which, the application of the applicants-appellant, for grant of compensation under the Employee's Compensation Act, 1923, was dismissed on the ground that the relation of employer and employee is not proved.

The facts coming out from the impugned order are that according to the applicants-appellants, Dariya Singh -husband of the appellant Giana Devi and father of Sudhir Kumar, was employed as driver with respondent No.1 Mahesh Kumar on the monthly salary of Rs.6000/-. On the fateful day, i.e. 26.3.2011, Dariya Singh was going to Loharu in car bearing registration No.HR-34D-1442 to participate

in the rally conducted by Shri Bhupender Singh Hooda, Chief Minister of Haryana. While coming back, car was hit by some unknown vehicle as a result of which, Dariya Singh received fatal injuries and died. Before the Commissioner, respondent No.1 did not appear whereas respondent No.2 denied the relationship of employer and employee between the parties.

Learned Commissioner after recording the evidence, came to the conclusion that relationship of employer and employee is not proved. Hence, application was dismissed.

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

Learned counsel for the appellant has argued that the documents on file shows that Mahesh Kumar had taken the car on superdari and these documents were not considered and discussed by the Commissioner. It is normal procedure in the lower Courts that the vehicle is always released on the superdari to the registered owner. Even this fact does not prove the relationship of employer and employee between Dariya Singh and Mahesh Kumar.

In this case, FIR was lodged by Sudhir Kumar son of Dariya Singh, wherein he mentioned his profession as agriculturist. Sudhir Kumar mentioned his age as 31 years saying that he is cultivating the land. Therefore, it is likely that the property belonged to his father. In the FIR Sudhir Kumar clearly stated that his father was going to participate in a rally in his "own car". At the time of accident, the deceased Dariya Singh was accompanied by another boy who had also received injuries. Before the Commissioner,

neither Sudhir Kumar nor accompanying passenger appeared in the witness box to state that Dariya Singh was working as a driver with respondent No.1. The mere fact that the car stands in the name of respondent No.1 does not mean that the deceased was employed with respondent No.1. It is quite possible that the car might have been borrowed or was sold to the deceased and the registration was not got transferred. In any case, except statement of Giana Devi, there is no other evidence to prove relationship of employer and employee.

It being so, no fault can be found with the findings recorded by the Commissioner. As such, the appeal is dismissed.

**02.07.2015**  
*gk*

**(Kuldip Singh)**  
**Judge**