

**104 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

FAO No.3321 of 2015 (O&M)

Date of Decision: May 19, 2015

Shri Ram General Insurance Company Limited .. Appellant

vs.

Jaswinder Kaur and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. Rajbir Singh, Advocate for
Mr. Sanjeev Goyal, Advocate for the appellant.

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

Kuldip Singh J.

CM-9895-CII-2015

There is a delay of 388 days in filing the present appeal.

For the reasons mentioned in the application, delay of 388 days in filing the present appeal is condoned subject to all just exceptions.

Application stands disposed of.

FAO-3321 of 2015

The Insurance Company has challenged the order dated 20.12.2013 passed by the Commissioner under Employees' Compensation Act, 1923-cum-Assistant Labour Commissioner, Mohali, vide which a compensation of ₹4,07,700/- was awarded in favour of the claimants on account of death of Amrik Singh during the course of employment.

Brief facts of the case, necessary for the disposal of the present appeal are that as per claim of the claimants, deceased Amrik Singh was working as a Cleaner on a truck/tralla bearing registration No.HR-56-5761, belonging to respondent No.6 herein. The deceased was 32 years of the age. On 28.06.2009, deceased Amrik Singh along with Gurdeep Singh, Driver (respondent No.7 herein) were on the way to Rampur, District Shimla with loaded *saria* (iron bars) from Chandigarh in the said truck/trolla. Gurdeep Singh, Driver was driving the said truck/trolla. At about 10.30 p.m., when the truck/trolla reached in the area of Rampur Bushehar, District Shimla, then for the purpose of unloading the *saria*(iron bars), Gurdeep Singh, driver slowed down the truck/trolla to park it. Gurdeep Singh, driver asked deceased Amrik Singh to watch left side of the truck/trolla. The driver suddenly increased the speed and applied breaks. Due to this, Amrik Singh lost his balance and fell down from the door of the said truck/trolla in the nearby ditch and received multiple injuries and died at the spot.

In order to save their skin, the driver and owner of the said truck/trolla lodged the DDR by giving false version.

In reply, the owner of the truck/trolla admitted that Amrik Singh was employed as Cleaner on his truck bearing registration No.HP-56-5761, who died at Rampur Bushehar on 28.06.2009 due to accident.

Learned counsel for the Insurance Company has argued that in the DDR lodged with the police, the number of the truck is

mentioned as HR-56-5767. In this way, the last digit of the registration number of the truck is different.

Therefore, it is argued that the said truck (bearing registration No.HR-56-5767) is not insured with the appellant-Insurance Company and the liability does not arise with the Insurance Company.

The DDR was lodged by the driver of the truck, who was rash and negligent in driving the offending truck. If one digit of the registration number of the truck is wrongly mentioned in the DDR, it does not mean that the Insurance Company is not liable to pay the compensation to the claimants. It is not claimed that the said vehicle bearing registration No.HR-56-5767 is a truck and belongs to the same owner. Admittedly, the deceased died at Rampur Bushaher, District Shimla during the course of employment. At that time, the deceased was working as a Cleaner. Usually, no record of such employment is maintained. Therefore, documentary evidence in this case cannot be expected. Thus, the oral evidence was rightly accepted by the Commissioner.

Learned counsel for the appellant has further argued that the driving licence of Gurdeep Singh, driver as well as the route permit of the offending vehicle were not produced.

However, it comes out that these documents were not demanded from the owner of the offending vehicle. Therefore, such plea cannot be allowed at this stage.

Learned counsel for the appellant has further argued that

the deceased was working as a second driver. He was not having any driving licence.

However, the facts show that he was working as a Cleaner not as a second driver. At the time of accident, he was not working as a driver but was working as a Cleaner. Therefore, there is no illegality in the Impugned order.

Accordingly, the present appeal is dismissed.

May 19, 2015
sarita

(KULDIP SINGH)
JUDGE