

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

**FAO No.3329 of 2015 (O&M)
Date of Decision: May 13, 2015**

M/s Dashmesh Bhatha Company Appellant

vs.

Krishana Wanti and others Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. Ashit Malik, 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)

CM-9966-CII-2015

There is a delay of 23 days in filing the present appeal.

For the reasons mentioned in the application, delay of 23 days in filing the present appeal is condoned subject to all just exceptions.

Application stands disposed of.

FAO-3329-2015

Challenged in the present appeal is the order dated 09.02.2015 passed by the Commissioner under the Employee's Compensation Act, 1923 (in short 'the Act'), Karnal.

Brief facts of the case are that in this case according to the claimants, Mulkh Raj (deceased) was employed as Muneem with

the present appellant, which happened to be a brick kiln company. It is stated that on 21.12.2002, Mulkh Raj attended his duty. After his duty hours he was supposed to hand over the key of the premises to the watchman but the watchman had not come on duty on the said date. Therefore, at the request of the present appellant, he was asked to stay there at night. At 12.30 night it was informed by the appellant that Mulkh Raj has expired. Mulkh Raj died during the course of employment and hence the application for compensation under the Act was filed.

The plea of the appellant is that deceased Mulkh Raj had resigned from his service on 30.06.2001 and had applied for pension from Provident Funds Department. He was working as office peon with the appellant and not as a Muneem.

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

Learned counsel for the appellant has argued that the deceased had resigned from service on 30.06.2001 and had applied for pension from the Provident Funds Department. It determines the fact of employment of the deceased at the time of his death. One person from the Provident Funds Department was examined to show that the provident fund was withdrawn.

The best evidence was available with the present appellant in the form of wages register, attendance record etc. but

none of these documents were produced. No evidence was led that the deceased did not die at the work place of the appellant. It is also not explained why the deceased was happened to be present at the work place of the present appellant at night.

In this case, the material evidence was not produced by the appellant. Therefore, the plea of the present appellant was rightly discarded by the Commissioner.

It being so, I do not find infirmity or illegality in the impugned order and the same is upheld. Consequently, the present appeal is dismissed.

May 13, 2015
sarita

(KULDIP SINGH)
JUDGE