

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

**FAO No.5634 of 2013 (O&M)
Date of Decision: April 06, 2015**

National Insurance Company Limited

.. Appellant

vs.

Gurdeep Kaur through LRs and another

.. Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. Gopal Mittal, Advocate for the appellant.

Mr. Munish 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.

The Insurance Company has filed the present appeal against the order dated 26.08.2013 passed by the Commissioner under Employees Compensation and Assistant Labour Commissioner, Hoshiarpur, vide which the compensation of ₹4,11,900/- (rupees four lac eleven thousand nine hundred only) along with interest @ 9% per annum from the date of filing of the claim petition till its realization was awarded to the applicant (respondent No.1 herein) on account of death of her son Balwinder Singh. Respondent No.2 (appellant herein) was directed to deposit the amount of compensation within sixty days of the order

The brief facts, which need to be reproduced for the purpose of disposal of the present appeal are that on 01.11.2009, Balwinder Singh was driving Maruti Zen Estilo car bearing registration No.PB-07J-TEMP-2009-3197 in the area of village Behfatto, P.S. Hajipur, District Hoshiarpur, where the car struck against the wall of the house. As a result of the accident, Balwinder Singh and other occupants of the car died. On the statement of one Gurnam Singh, DDR No.15, dated 02.11.2009 was recorded at Police Station Hajipur, District Hoshiarpur. It was further stated that deceased Balwinder Singh was employed as driver with respondent No.1 (owner of the car) at the salary of ₹4,500/- per month. The said car was insured with the Insurance Company-respondent No.2 (appellant herein).

In the written statement, respondent No.1 (respondent no.2 herein) denied that Balwinder Singh was employed by him. However, he did not deny that his car was involved in the accident and Balwinder Singh was one amongst the persons, who died in the said accident.

After framing the issues and recording the evidence, the impugned order was passed.

I have heard learned counsel for the parties and have also carefully gone through lower court record.

The contention of learned counsel for the appellant is that Balwinder Singh was working in foreign country and that he had come only a few months back, on leave, only to attend some

marriage ceremony. He was the brother-in-law of the brother-in-law of the brother of respondent No.1. It is stated that there is no record of employment.

I am of the view that record of Al-Hamed Construction and Development Company, W.L.L. in Bahrain, is merely marked and cannot be read into evidence.

A perusal of the statement of respondent No.1 (respondent No.2 herein) shows that he did not deny the accident though he denied the employment of Balwinder Singh.

The own damage claim (Ex.AW4/A) shows that in the claim form of own damage of the car, Balwinder Singh was mentioned as driver. Therefore, it is not disputed that at the time of accident, Balwinder Singh was driving the car. Now the question would arise that whether Balwinder Singh was employed by respondent No.1 or not?

Admittedly, the mother of the deceased admitted that her son had come from foreign country. It does not mean that he was merely on leave and was to go back.

When one is working in foreign country, he is likely to seek some employment on return to India. In rural set up whenever a person is employed, no written document is executed. The car was only one month old. Therefore, even first month salary might not have been paid. Therefore, the statements of the claimant and brother of the deceased that he was employed by respondent No.1, are reliable.

Respondent No.1 (respondent No.2 herein) in his written statement, has given a vague reply. While submitting written statement, in para No.1 in the reply on merits, he merely stated that the other averments are denied as incorrect.

The Commissioner has weighed the entire evidence and found that Balwinder Singh died on account of the accident arising out of in course of his employment. There is common practice in the rural area that the relations are employed for work.

In view of the foregoing discussion, I do not find any ground to interfere with the findings recorded by the Commissioner.

Accordingly, the present appeal is without any force and is dismissed

April 06, 2015
sarita

(KULDIP SINGH)
JUDGE