

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

**FAO No.3833 of 2015 (O&M)
Date of Decision: July 28, 2015**

Sh. Anil and others

.. Appellants

vs.

Smt. Krishna

.. Respondent

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. N.K. Malhotra, Advocate for the appellants.

- 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.

CM-14958-CII-2015

Application is allowed as prayed for .

Annexures A-2 to A-5 are taken on record.

FAO-3833-2015

The appellants (respondents therein) have challenged the order dated 09.03.2015 passed by the Commissioner under the Employee's Compensation Act, 1923, Rohtak, vide which on account of injuries received by Smt. Krishna (respondent herein) on the brick kiln of the present appellants, a compensation to the tune to ₹92,970/- was awarded including interest and expenses of the proceedings.

Brief facts of the case are that Smt. Krishna, aged about 35 years was working as a labourer on the brick kiln of the appellants

on the monthly salary of ₹6,000/-. On 02.03.2006, when she was loading bricks on the cart, the cart moved and she was run over by the cart and received multiple injuries. She was taken to PGIMS, Rohtak, where she remained admitted up to 13.03.2006 and spent ₹40,000/- on the treatment. She became totally disabled. The accident occurred during the course of employment.

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

Learned counsel for the appellants has argued that the present appellants deny the relationship of the employer and the employee.

Learned counsel for the appellants has also placed on file the copy of the application showing that Om Parkash father of the appellant was sought to be made the party. He was claimed to be the owner of the brick kiln.

However, it is not denied that Om Parkash is now dead and the appellants are his legal heirs. The present ownership of the brick kiln by the appellants has also not been denied.

According to the statement of Smt. Krishna, she was working on the brick kiln of the present appellants and was loading bricks on the cart. The cart moved and she fell down and her feet suffered fractures. Anil Kumar Thekedaar i.e. owner of the *bhatta* (brick kiln) was standing in the *bhatta* and the labourers brought her to the hospital.

One thing is clear and not rebutted in the cross-examination is that the accident took place in the brick kiln. The appellants have not explained as to if Smt. Krishna was not employed in the brick kiln, then how she happened to come to the brick kiln and was loading the bricks on the cart.

Normally, in case of brick kiln worker, no appointment letter is issued and the engagement is oral. The fact that the accident took place when Smt. Krishna was loading bricks on the cart shows that she was an employee of the brick kiln. One or the other technical objections cannot be allowed to stand in the way of justice. Therefore, it is clear that the accident took place during the course of employment.

It was found by the Commissioner that she became 60% disabled. Her both legs were fractured and she had to undergo treatment. Therefore, the amount of ₹52,970/- as compensation cannot be called on the higher side. The other part of the compensation is the interest and expenses of the proceedings.

Thus, there is no illegality or infirmity in the impugned order.

Hence, the appeal is dismissed.

July 28, 2015
sarita

(KULDIP SINGH)
JUDGE