

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

**FAO No.408 of 2015 (O&M)
Date of Decision: March 17, 2015**

M/s Subhash Electricals

.... Appellant

vs.

Ramehar and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. Vikas Lochab, Advocate for the appellant.

Kuldip Singh J.

CM-1074-CII of 2015

For the reasons mentioned in the application, delay of 38 days in filing the present appeal is condoned, subject to all just exceptions.

Application stands disposed of.

FAO No.408 of 2015

M/s Subhash Electricals, who was respondent No.1 before the Commissioner under the Employee's Compensation Act, Circle-1, Sonapat, has filed the present appeal against the order dated 15.09.2014 passed by the said Commissioner, whereby on account of death of Dharambir, the compensation of ₹5,93, 659/- (₹Five lacs ninety three thousand six hundred fifty nine only) with interest was awarded against respondent No.2 (SDO, City, UHBVN, Sonapat) with right to be indemnified by respondent No.1.

The facts necessary for the disposal of the present appeal are that Dharambir (deceased) was working with respondent No.1 (appellant herein), who was electric contractor of respondent No.2. Deceased Dharambir was about 32 years old. His monthly income was assessed @ ₹4,847/-. On the fateful day i.e. 13.04.2012, Dharambir was working on the electric transformer in the village Thraya, Tehsil and District Sonapat. Suddenly, due to high voltage electric shock, he was fully burned and died at the spot. After post-mortem, the family members of the deceased were not informed and the deceased was cremated as unknown. Later on, when the family members came searching for the deceased on 19.04.2012, they came to know about the incident, from the people and Gram Panchayat, who gave letter in writing regarding the incident to the family members of the deceased and then father of the deceased contacted to Thana Sadar, Sonapat. The deceased was identified from the photograph and the clothes lying at Police Station Sadar, Sonapat. The applicants-respondent Nos.1 to 5 gave various complaints but without any action.

Before the Commissioner, respondent No.1-appellant denied that Dharambir was his employee and working under his control. He stated that the attendance record for the last two years prior to the incident was checked by the police but nowhere the name of the deceased was found mentioned in the register. Respondent No.2 before the Tribunal did not appear and was proceeded against ex parte.

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

Admittedly, the deceased died after receiving high voltage electric shock while working on the electric transformer in village Tharaya, Tehsil and District Sonapat. He was completely burnt. Though, respondent No.1-appellant denied his relationship with the deceased but the Commissioner took into consideration several facts to hold that the relationship of employer and employee is proved between respondent No.1-appellant and the deceased.

The dead body was found lying near the electric transformer, where the work was going on. The Commissioner took into consideration that it is stated that the deceased was working on the electric transformer. It was claimed that the deceased was working on the electric transformer, which is being carried out under respondent No.1-appellant. If deceased was not engaged as labourer on the said electric transformer, how the applicants-respondent Nos.1 to 5 came to know that the work of the electric transformer was going on.

The Commissioner had relied upon the letter given by the Panchayat to hold that deceased Dharambir was working on the said electric transformer. The Panchayat is the best entity to know, who was working on the electric transformer, which was being installed in the village. Respondent No.1-appellant admitted that inquiry was made from one Vinod son of Maha Singh. It is admitted by respondent No.1-appellant that Vinod Kumar was one of the

employees. He claimed that Rattan Singh, Ramesh Kumar, Rajesh Kumar were also looking after the work. However, he never examined any of the workers to prove that the deceased was not working along with them. Respondent No.1-appellant had admitted that 18 workers never worked with him but he produced an attendance record (Exs.R-1 to R-22), wherein the name of 18 persons are found mentioned in Exs.R-2 to R-22. The said record is not authenticated and does not bear the signatures of the employees nor it was submitted before the Principal Employer. Therefore, it appears that the said record was fabricated to avoid any liability. The Commissioner dealt with all the aspects of the case and held that the relationship of employer and the employee was there. There is no dispute regarding the said finding. Therefore, I do not find any merit in the present appeal. The same is accordingly dismissed.

March 17, 2015
sarita

(KULDIP SINGH)
JUDGE

To be referred to reporter.