

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

Civil Revision No.2945 of 2015

Date of decision : 30.11.2016

Labh Singh

.....Petitioner

Versus

Vimla Devi and another

...Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Ms. Savita Tanwar, Advocate for petitioner.

DARSHAN SINGH, J.

The present revision petition has been preferred against the order dated 18.03.2014 passed by the learned Commissioner, Ambala under the Employee's Compensation Act, whereby the application moved by the petitioner to delete his name from the array of respondents has been dismissed.

2. I have heard learned counsel for the petitioner and have gone through the paper-book carefully.

3. Learned counsel for the petitioner contended that respondent No.1 has filed the claim petition before the Commissioner, Ambala under the Employee's Compensation Act on account of death of her son Shyam Karan on account of the injuries suffered by him while driving the tractor bearing registration No.HR-08D-7188. She contended that the petitioner

has been wrongly impleaded as respondent No.1 in the claim petition. Petitioner has no concern in any manner either with the said tractor bearing registration No.HR-08D-7188 or with deceased Shyam Karan. There was no relationship of employer and employee between the petitioner and said Shyam Karan. Thus, she contended that the petitioner has been unnecessarily dragged to litigation and his name is liable to be deleted from the array of the respondents.

4. I have duly considered the aforesaid contentions.

5. As per the case of respondent No.1/claimant deceased Shyam Karan was employed by the petitioner to work as a driver on the tractor bearing registration No.HR-08D-7188 owned by respondents No.1-A to 1-C. The plea raised by respondent No.1-claimant with respect to the disputed question of fact as to whether there existed any relationship of employer and employee between the petitioner and deceased Shyam Karan cannot be adjudicated upon at this preliminary stage. This disputed question of fact is to be determined by the learned Commissioner on the basis of evidence to be adduced by the parties. When the claimant has raised this plea that the deceased was employed by the petitioner (respondent No.1 before the Commissioner) to work as a driver of tractor bearing registration No.HR-08D-7188, it cannot be stated that the petitioner has been impleaded as a respondent in the claim petition unnecessarily, obviously the claimant has to establish this plea by leading the cogent and convincing evidence in order to seek any relief against the petitioner as mere plea raised in the pleading cannot take the place of proof.

6. Thus, there is no ground at this stage to delete the name of the petitioner from the array of respondents in the claim petition in view of the plea raised in the claim petition.

7. Consequently, keeping in view my aforesaid discussion, I do not find any illegality in the impugned order passed by the learned Commissioner. Therefore, the present revision petition is without any merit and the same is hereby dismissed.

30.11.2016

sunil yadav

**(DARSHAN SINGH)
JUDGE**

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No