

CWP No.399 of 2016

[1]

In the High Court of Punjab and Haryana at Chandigarh.

CWP No.399 of 2016

Date of Decision: 11.01.2016.

Municipal Council, Bhiwani

...Petitioner

Versus

Commissioner, under the Employees Compensation Act,
Circle Bhiwani, District Bhiwani and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Jagdish Manchanda, Advocate,
for the petitioner.

SABINA, J.

Petitioner has filed this petition under Article 226 of the Constitution of India challenging the order dated 28.11.2014.

Learned counsel for the petitioner has submitted that the deceased Satender was not an employee of the petitioner. In fact the cleaning work was being done by the petitioner through contractor/outsourcing.

Respondents No.2 to 4 had approached the Commissioner under Employees' Compensation Act, 1923, seeking compensation on account of death of Satender.

Case of respondents No.2 to 4 was that Satender was working as a Driver with the petitioner and had died on

CWP No.399 of 2016

[2]

07.08.2010 while he was performing his duties in unhygienic atmosphere. It was further the case of respondents No.2 and 3 that the said Satender was getting salary to the tune of ₹5349/- per month and was aged about 40 years at the time of death.

Petitioner in its written statement denied the contents of the claim put forth by respondents No.2 to 4. It was averred that there was no relationship of employer and employee between the petitioner and the deceased. In fact the cleaning work was being got done by the petitioner through contractor under outsource policy.

On the pleadings of the parties, following issues were framed by the learned Commissioner:-

1. Whether there was existed relationship of master and servant between the respondent and the deceased?
2. Whether the applicants are entitled for the amount claimed?
3. How the applicants are entitled to claim to what extent?
4. Relief.

In support of their case, respondents No.2 to 4 examined respondent No.3 as PW-1, Ramesh Chand as PW-2 and Chhote Lal as PW-3. Respondents also examined RW-1- Bramjit Singh. Learned Commissioner vide its impugned

CWP No.399 of 2016

[3]

order allowed the claim put-forth by respondents No.2 to 4. Hence, the present petition by the petitioner-Municipal Council.

PW-1-Naveen Kumar while appearing in the witness box tendered his affidavit Exhibit PW-1/A and deposed as per the contents of the claim application. In his cross-examination he deposed that his father had died on 07.08.2010.

PW-2-Ramesh Chand in his cross examination deposed that he had worked as Sanitary Inspector and all sweepers and drivers has worked under him. He further stated that the deceased had made a verbal complaint to him regarding unhygienic atmosphere at his work place and he had brought the said fact to the notice of the higher officials. The incident dated 07.08.2010 had been narrated to him by the Sweeper. He further stated that he had retired on 21.11.2012.

PW-3-Chhote Lal deposed that he was working with the petitioner as a Sweeper. In the year 2010 he was deputed on vehicle No.HR-61/2704 as a Helper and Satender Kumar was working as a Driver on the said vehicle. On 07.08.2010 when they were unloading waste from the vehicle at dumping place, the tyres of the vehicle got stuck in the soil and due to this reason they had to stay at the dumping site for a long

CWP No.399 of 2016

[4]

time. Due to unhygienic atmosphere on account of decay of dead-bodies of animals and rainy season, Satender felt giddiness and was removed to Civil Hospital where he later died.

Respondent No.2 to 4 also proved on record copy of the Postmortem report as Exhibit P-1 and death certificate as Exhibit P-2.

RW-1 Barmjit Singh deposed as per the contents of written statement in his examination-in-chief. During his cross examination, he has stated that Satender had been engaged through a contractor. He admitted that the vehicle in question was owned by the Municipal Council and a logbook was maintained qua use of the said vehicle. On 07.08.2010, Ramesh Kumar Sanitary Inspector was looking after the Sweeping Branch.

Thus from the evidence on record it was established that the deceased was working as a Driver on the vehicle in question on 07.08.2010. Although petitioner had denied that the deceased was its employee but petitioner had failed to disclose the name of the contractor and rebut the statements of PW-1 to PW-3 to the fact that the deceased was working on the vehicle owned by the petitioner. The logbook qua the vehicle in question was not proved on record to rebut the evidence led by respondents No.2 to 4 to the effect that the

CWP No.399 of 2016

[5]

deceased was working on the vehicle in question on the day he had suffered the heart attack.

In the facts and circumstances of the present case, the learned Commissioner had thus rightly allowed the claim put forth by respondents No.2 to 4.

No ground for interference is made out.

Dismissed.

January 11, 2016
kapil

(SABINA)
JUDGE