

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

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FAO No.467 of 2016 (O&M)
Date of Decision: August 01, 2016

National Insurance Company Ltd.

...Appellant

Versus

Smt. Chander Pati and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. S.S. Sidhu, Advocate
for the applicant-appellant.

AUGUSTINE GEORGE MASIH, J. (ORAL)

CM No.1396-CII of 2016

Prayer in this application is for condonation of delay of 25 days
in filing the appeal.

For the reasons mentioned in the application which is duly
supported by the affidavit of Shri Gopal Krishan, Assistant Manager,
Regional Office, National Insurance Company Limited, Chandigarh, the
present application is allowed.

Delay of 25 days in filing the appeal stands condoned.

FAO No.467 of 2016

Challenge in this appeal is to the award/order dated 29.09.2015
passed by the Commissioner under the Employee's Compensation Act,
1923, at Hisar, whereby the claim petition of respondents 1 and 2 has been
allowed by granting them compensation amounting to ₹5,33,925/- along
with interest at the rate of 12% per annum with a direction that the amount
be deposited within a period of 60 days from the date of the order.

2. It is the contention of learned counsel for the appellant that the
relationship of employer-employee has not been established between

deceased-Raj Kumar, who is asserted to be a part time driver with respondent No.3-A. He contends that no documentary evidence has been placed on record indicating such an employment with respondent No.3-A i.e. Vijay Kumar. He contends that in the absence of a relationship of employer-employee, no compensation could have been claimed or granted to the claimants. Assertion has also been made that the name of the driver is not mentioned in the FIR which is lodged by the driver of Skoda vehicle against the Tata Magic vehicle which met with an accident and alleged to have been driven by Raj Kumar. Assertion is thus made for allowing the present appeal and setting aside the impugned award/order passed by the Commissioner.

3. I have considered the submissions made by learned counsel for the appellant and with his able assistance, have gone through the impugned order as also the evidence led by the parties.

4. A positive assertion has been made by the claimants with regard to the factum of deceased-Raj Kumar having been working as a part time driver with respondent No.3-A-Vijay Kumar. In the cross-examination of respondent No.1, nothing has come out which would cast a dent upon the veracity of the witness. The relationship of employer-employee is admitted by respondent No.3-A-Vijay Kumar in his written statement. In the absence of any evidence to the contrary available on record, the assertion of the counsel for the appellant that the relationship of employer-employee did not exist between Raj Kumar and Vijay Kumar, cannot be accepted.

5. The assertion of the counsel for the appellant that the name of the driver was not mentioned in the FIR would not make any difference as the name, if any, was to be disclosed by the driver of the vehicle i.e. Skoda

which had met with an accident with Tata Magic, who obviously being a stranger would not know the name of the driver of the other vehicle and, therefore, the contention of counsel for the appellant does not carry weight. The findings as recorded by the Commissioner in the impugned award/order dated 29.09.2015 cannot be faulted with.

6. There being no merit in the present appeal, the same stands dismissed.

7. In the light of the dismissal of the appeal, the application for stay i.e. CM No.1397-CII of 2016, stands disposed of as infructuous.

August 01, 2016
Puneet

(AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No