

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

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FAO No.8086 of 2015 (O&M)
Date of Decision: August 29, 2016

Shri Hemant Gulati

...Appellant

Versus

Des Raj and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Neeraj Khanna, Advocate
for the applicant-appellant.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Present appeal has been filed by asserting that insured-Des Raj son of Shri Kishan Chand was not employed by the appellant rather he had employed Shibu contractor to do the wooden work of the house. Shibu contractor employed Des Raj and, therefore, there was no relationship of employer-employee between the appellant and respondent No.1-Des Raj. The relationship, if any, of employer-employee was between respondents 1 and 2 and, therefore, the appellant cannot be held to be liable, as has been so stated in the award dated 29.10.2015 passed by the Commissioner, Employee's Compensation Act, Circle Karnal. He, thus, contends that the findings and the ultimate liability which has been imposed upon the appellant, cannot sustain and deserve to be set aside and the complete and total liability, if any, would be of respondent No.2-Shibu contractor. Prayer has thus been made for setting aside the impugned award.

2. I have considered the submissions made by learned counsel for the appellant and with his assistance, have gone through the impugned award.

3. It is not in dispute that the appellant had engaged

respondent No.2-Shibu contractor for doing the wooden work of his house and Shibu contractor had engaged/employed respondent No.1-Des Raj. It is also not in dispute that the work was being performed at the site, where the accident had taken place resulting in amputation of three fingers. The evidence which has been brought on record clearly establishes this fact. The principal employer was the appellant and, therefore, vicarious liability has rightly been imposed upon the appellant. Commissioner in his award has further given liberty to the appellant to recover the liability amount from respondent No.2-Shibu contractor. There is no illegality in the findings as returned by the Commissioner in his impugned award nor is there any infirmity which would call for interference by this Court in the present appeal.

4. In view of the above, finding no merit in the present appeal, the same stands dismissed.

5. In the light of the dismissal of the appeal, application for stay i.e. CM No.25539-CII of 2015, stands disposed of as infructuous.

August 29, 2016
Puneet

(AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No