

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision: August 05, 2016

+ **FAO 151/2016 & C.M.No. 12685/2016**

SHRIRAM GENERAL INSURANCE CO LTD. Appellant

Through: Mr. Sameer Nandwani and Mr. P.
Acharya, Advocates

versus

GULPHAM & ANR. Respondents

Through: Ms. Pratima M. Chaudhary &
Mr. Vineet Kumar, Advocates

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

JUDGMENT

ORAL

1. Impugned order of 25th January, 2016 grants compensation of ₹2,95,613/- with interest to respondent No.1- claimant on account of 28% disability suffered by him in a vehicular accident.

2. In this appeal, the insurer has challenged the impugned order on the ground that relationship of employer-employee is not established and the disability certificate evidencing 28% disability is not proved by any doctor.

3. At the hearing, learned counsel for appellant has drawn attention of this Court to evidence of respondent No.2 – owner of the vehicle, to point

out that he has denied the employer-employee relationship with respondent-claimant and so, grant of compensation to respondent-claimant is wholly unjustified and so, impugned order deserves to be set aside.

4. On the other hand, learned counsel for respondent-claimants submits that judicial notice ought to be taken of the fact that nobody gives employment letter to a cleaner of a vehicle and salary is also paid to such employee in cash and so, there cannot be any direct evidence of employment. It is pointed out that there is evidence of independent witnesses- *Javed and Kallu*, who have categorically deposed that respondent-claimant was working as a cleaner on the truck of respondent No.2-owner and their evidence has been rightly considered by the learned Commissioner in the impugned order. It is pointed out that the disability certificate has been proved by respondent-claimant in evidence and there is no cross-examination of the injured to dislodge the medical certificate and therefore, there is no merit in this appeal.

5. Upon considering the submissions advanced by both the sides and on perusal of the impugned order and material on record, I find that in such like case, there cannot be direct evidence and on the basis of established facts, reasonable inference have to be drawn. While taking into consideration the evidence of independent witnesses- *Javed and Kallu*, I find that learned Commissioner has rightly concluded that relationship of employer-employee existed. So far as disability certificate is concerned, I find there is no cross-examination of respondent-injured qua this certificate. No substantial question of law arises for consideration

in this appeal.

6. In light of the aforesaid, I do not find any infirmity in the impugned order of 25th January, 2016. Accordingly, interim order of 6th April, 2016 is vacated. This appeal and application for stay are dismissed while leaving the parties to bear their own costs.

**(SUNIL GAUR)
JUDGE**

AUGUST 05, 2016

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