

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

201

FAO No.1119 of 1996

Date of decision: 15.05.2017

Smt. Kitaboo & others

....Appellants

Versus

Rattan Singh & another

...Respondents

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present: Mr.Amit Kashyap, Advocate, for
Mr.Rajinder Goyal, Advocate, for the appellants.

Mr.Ram Chander, Advocate, for the respondent.

G.S. SANDHAWALIA, J. (Oral)

The present appeal, filed under Section 30 of the Workman's Compensation Act, 1923, challenges the order dated 24.11.1995, passed by the Commissioner, Circle Kaithal.

Vide the impugned order, the claim application filed on account of death of Bheera, who was stated to be working as labourer with respondent No.1-Rattan Singh, had been dismissed. The death is stated to have taken place on account of the fact that he was spreading the medicine in the paddy crop which affected him and due to which, he died. The said employment, as such, was denied by the respondent-employer that he had engaged the deceased as a labourer for the purpose of agriculture. The claimants had also set up the plea that the pro-note had been executed in favour of the said employer to the tune of Rs.6500/- and a photocopy of the same has been produced on record as Ex.RW1/1.

The same were objected on account of the fact that it was merely marked and the persons who had prepared the said document were not produced as witness. Resultantly, the said plea of the employer was accepted, while placing reliance upon the judgment of the Apex Court in

Sait Tarajee Khimchand & others Vs. Yelimarti Satyam & others 1971

AIR (SC) 1865. Resultantly, the present appeal has been preferred.

It is pertinent to notice that respondent No.1-employer has died and no steps have also been taken to implead the LRs.

Counsel for the appellants submits that the claimants are not in touch with him and therefore, he is in no position to bring on record the LRs and accordingly, submits that in view of the pro-note, there was sufficient material to show that there was *inter se* relationship of employer-employee between the parties. The Commissioner was not justified in dismissing the claim petition as it was practice amongst the landowners to execute a pro-note from the labourers who were working in the fields. He, accordingly, prays that the matter be remanded for fresh decision, as only on account of the finding recorded on issue No.1, the claim has been rejected and no finding was recorded on the issues No.2, 3 & 4.

A perusal of the impugned order would go on to show that apart from the sole statement of Smt.Kitaboo Devi, wife of the deceased, no other person has been produced by her to show that there was relationship, as such, between the employer and the deceased. Merely because there was a pro-note, as such, in favour of the respondent would not, as such, prove that the deceased was working with respondent No.1. In case there was a relationship of employment, as such, it was always open to the claimants to have produced somebody from the said village or some other employee to show that there was a relationship of

employer-employee. Having failed to do so and in the absence of any other evidence or proof, the finding which has been recorded, as such, by the Commissioner, would not warrant interference, as no substantial question of law arises which is liable to be interfered with by this Court.

The factum of any other witness having been examined who had signed on the pro-note has also not been done by the claimants and therefore, the argument raised that the same would go on to show that there was a relationship of employer-employee, as such, cannot be accepted. Even otherwise, the same was never proved in accordance with law. Accordingly, this Court is of the opinion that the findings, as such, recorded by the Commissioner, do not suffer from any infirmity or raise any substantial question of law which would warrant interference by this Court.

Resultantly, the present appeal is dismissed.

15.05.2017
Sailesh

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned: *Yes/No*

Whether Reportable: *Yes/No*