

IN THE HIGH COURT OF PUNJAB AND HARYANA,  
AT CHANDIGARH

201

**FAO No.2122 of 1999**

Decided on : 23.02.2017

*United India Insurance Co. Ltd.*

*... appellant*

*Versus*

*Chain Singh and another*

*.. Respondents*

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

Present : Mr.Neeraj Khanna, Advocate for  
Mr.Ravinder Arora, Advocate  
for the appellant.

None for respondents.

**G.S.Sandhawalia, J. (Oral)**

The appellant-Company challenges the award of compensation passed in favour of respondent No.1, who is the father of the deceased, Lakhbir Singh. A sum of Rs.1,31,970/- was directed to be paid as compensation by both the respondents jointly and severally along with interest at the rate of 12% p.a. from the date of accident vide order dated 21.05.1999 under the Employees Compensation Act, 1923. The reasoning which prevailed with the Commissioner, Hoshiarpur was that the deceased was working as conductor with the employer-respondent No.2, and he had died on 13.10.1994 due to electric shock while he was performing duty as a conductor. He was deputed as conductor along with Bus PAB-5065 which was scheduled to proceed to Talwara from Hoshiarpur at about 11.55 am. The driver of the bus parked his bus when the deceased went to the counter to receive vouchers from Baba Singh, Adda Incharge. He touched the iron bars of the counter which was full of

electricity and he died on the spot. The defence taken by the Insurance company was that he was not on duty and the bus was insured with the appellant from 02.02.1994 to 01.02.1995. The death was due to negligence of the electricity department which was not a necessary party. The employment as such was admitted with the employer but only the factum of duty was denied.

The claimant stepped into the witness box as AW-1 and stated that the deceased was getting Rs.1200/- per month as salary and deposed about the facts. Sh.Ajit Singh Adda Incharge of Punjab Roadways Hoshiarpur also appeared and admitted the factum of accident. He stated that he was present at the adda and he knew Lakhbir Singh, deceased who was working as a conductor and he had to go to Talwara. When he touched the window for getting the vouchers, he had come into contact with the electric current and died at the spot. The police official, namely, Vijay Kumar had come at the spot and he recorded his statement. The suggestion put to him that the deceased was on leave was denied. Dr.Bhupinder Singh appearing as AW-3 stated that as per police information, it was alleged case of electric shock as per the Post Mortem Report and the deceased was 23 years old. Police official, Vijay Kumar, ASI, further verified the the said accident and the fact that he had received a telephone call that a person had died at the Dasuya counter of Bus-stand due to electric shock. He admitted that Baba Singh was the Adda Incharge on the said date who was working with the employer.

Counsel for the appellant mainly stressed that the deceased was not on duty therefore, he did not die during the course of

employment. The said argument keeping in view of the above evidence does not merit consideration. Only Ranbir Singh, RW-1, the witness of the employer had stated that the deceased was on leave and not on duty, would not take the appellant a long away. It is to be noticed that in cross-examination, the leave application had not been produced by the employer. He had admitted the fact that Baba Singh was the Adda Incharge of that day and the attendance register was only in the custody of the employer and no one can have access to it. As per report under Section 174, Cr.P.C., all the facts have been mentioned as narrated by the witnesses A-1 to A-4, which falsify the stand taken by respondent No.2.

Keeping in view the above cumulative facts, it was rightly held that on the basis of discussion, once the presence of the deceased at the place of employment has been proved beyond a pale of controversy. Therefore, the statement of RW-1 as such, is liable, not be accepted. His case was that the deceased was on leave at the time of accident but no such leave application was produced though the stand was that deceased had been absent for a long time from duty, but he had given no such application of his absence from 05.10.1994 till 13.10.1994. Thus, the finding that he died in an accident arising out of and in the course of his employment, is upheld.

Resultantly, no substantial questions of law arises in the absence of which, this Court is not inclined to entertain the appeal which is only to be entertained in view of the provisions of the Act on the substantial questions of law under Section 30. The findings have been recorded that he was 23 years old and income has been assessed @

Rs.1000/- p.m. and after applying formula 219.95, an amount has been assessed along with interest which is statutory payable. In such circumstances, there is no merit in the appeal and the same is dismissed.

[ G.S.Sandhawalia ]  
Judge

23.02.2017  
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|---------------------------|---|--------|
| Whether speaking/reasoned | : | Yes/No |
| Whether Reportable        | : | Yes/No |