

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

FAO No.2147 of 2010 (O&M)

Date of Order: 14.07.2017

Banarsi Dass Grover through his LRs

....Petitioners

Versus

Lachhman and Ors.

....Respondents

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH

Present: Mr. Pawan Girdhar, Advocate for the petitioners.

Mr. Deewan S Adlakha, Advocate for
respondent Nos.1,2 & 4/claimants.

Mr. Parveen Kumar Rohilla, Advocate for
LRs of respondent No.5.

None for respondent No.6 despite being served.

JASWANT SINGH, J (ORAL)

Present first appeal had been filed by Banarsi Dass Grover, who had engaged Lal Chand as the Contractor for undertaking the demolition work of House No.163-L, Model Town, Panipat in November 1997. On the fateful day i.e 12.11.1997, Lal Chand called and engaged one Ram Dass along with others to do the labour work at the site. Due to the breaking of Lanter of the roof of the building, death of Ram Dass occurred at the site. The family members/respondent Nos.1 to 4 herein filed claim petition under the Workmen Compensation Act, 1923 (for short "1923 Act"). The Commissioner, Circle II, Panipat vide order dated 28.08.2009 awarded total compensation of Rs.4,43,190/-, which

included interest at the rate of 12% on the awarded amount of compensation.

In the claim petition, Banarsi Dass Grover was impleaded as respondent No.1, Lal Chand Contractor as respondent No.2 and the son of Banarsi Dass, namely Subhash Chander, being the registered owner of the residential house, as respondent No.3. Since no apportionment was recorded in the order dated 28.8.2009, Banarsi Dass and Subhash Chander filed a joint application for clarification in that regard. Vide order dated 08.1.2010 passed by the Commissioner under Workmen's Compensation Act, Panipat-2, 80% of the amount of compensation, interest and penalty was to be paid by Lal Chand whereas the remaining 20% would have to be paid by the applicant i.e Banarsi Lal Grover and Subhash Chander. However, there appears to be a mistake in the order dated 08.01.2010 wherein name of Subhash Chander stands omitted in the operational part of the order.

Present first appeal was filed by Banarsi Dass Grover, assailing the order dated 28.8.2009 and 08.1.2010 passed by the Commissioner under the Workmen Compensation Act along with an application for condonation of 119 days' delay in filing the main appeal and another application seeking condonation of 7 days delay in re-filing the appeal.

Reply to the application seeking condonation of 119 days' delay has also been filed on behalf of respondent Nos.1,2 & 4.

For the reasons stated in the applications, which are supported by affidavits, the same are allowed and the delay in

filing as also re-filing the appeal is condoned.

It transpires that Subhash Chander son of Banarsi Dass Grover did not file an appeal along with his father due to the inadvertent mistake in the order dated 08.1.2010 whereby his name does not find mention qua his liability although he was one of the applicants, who were held jointly and severally liable to make the payment of compensation in the main order dated 28.8.2009.

During the pendency of the present appeal, Banarsi Dass Grover died on 21.9.2013, leading to his sons Ashok Grover and Subhash Chander (already impleaded as respondent No.6 in the present appeal), being impleaded as his LRs.

Learned counsel for the appellants very fairly submits that the main ground of challenge in the present appeal was with regard to the liability of Banarsi Dass Grover for not being the owner of the property, however, in the light of Subhash Chander having succeeded the estate including liabilities of Banarsi Dass and also having been jointly and severally held liable vide order dated 28.8.2009 and having not separately filed an appeal, his liability being the LR of Banarsi Dass (since deceased) would stand.

On the other hand, learned counsel for the claimants points out that even otherwise it is established on record that Banarsi Dass had engaged the contractor to undertake the demolishing work and that said Subhash Chander being the registered owner was also impleaded as respondent No.3. There is nothing on record to suggest that Subhash Chander had not authorized Banarsi Dass to undertake the work and therefore

escape liability as apportioned by the courts below.

After hearing learned counsel for the parties and keeping in view the conspectus of facts, no ground for interference is made out, especially in view of the fact that Subhash Chander, in any case, was held liable along with his father and admittedly Subhash Chander did not prefer any appeal against the impugned award. Even otherwise, it stands established that Subhash Chander-registered owner had impliedly authorized Banarasi Dass to engage contractor to execute the work.

Dismissed.

July 14, 2017
manoj

(JASWANT SINGH)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable : Yes/No