

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

202

**FAO No.4762 of 2010(O&M)
Date of decision: 17.02.2017**

IFFCO Tokio General Company Ltd.

....Appellant

Versus

Bhalle Ram & others

...Respondents

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

Present: Mr.Rajneesh Malhotra, Advocate, for the appellant.

None for the respondents.

G.S. SANDHAWALIA, J. (Oral)

The present appeal is directed against the order of the Commissioner, Sonapat, under the Workman's Compensation Act, 1923, dated 19.02.2010, whereby a sum of Rs.3,68,340/- was assessed as payable by the Insurance Company on account of the fact that Jai Karan had died while working as driver with respondent No.6, which is a Goshala, in an accident which took place on 26.10.2008. He was stated to be driving a tractor-trolley which was duly loaded with fodder and on account of applying the brake, the tractor-trolley had over-turned and he had sustained multiple injuries and succumbed to them.

The claim was on the basis of the age which was around 35 years and the deceased was stated to be earning a salary of Rs.5000/- per month. The employer was proceeded against *ex parte* and keeping in view the driving licence (Ex.P2) and the identity card issued by the said employer (Ex.P1), the Commissioner, keeping into account the statement made by the widow-Ramkali and the brother of the deceased-Naresh, noticed the contents of the DDR (Ex.P3) and the postmortem report (Ex.P4) to hold that the deceased died in an accident arising out of the

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-2-

course of his employment. The fact that the Insurance Company could not rebut the identity card and the cause of death, therefore, the objections raised that the driving licence (Ex.P2) did not had an endorsement of driving tractor, was also repelled by noting that the Licence Clerk himself had been examined by the Insurance Company and that the word 'tractor' also found mention in the same. Resultantly, keeping in view the fact that the age of the deceased was 40 years, the salary was taken as Rs.4000/- per month and the amount was assessed, as noticed above and awarded in favour of the claimants.

An argument has been raised by counsel for the appellant that there was no relationship of employment, as such, and that the liability was not there to pay.

As noticed, the Commissioner had taken into account the identity card issued by the Goshala and the statement of the witnesses, to come to the conclusion that the deceased was the employee of respondent No.6. The factum of having a valid driving licence has also been proved and that the accident occurred and arose out of the course of employment.

In such circumstances, no substantial question of law arises for consideration of this Court and the present appeal is, hereby, dismissed. The interim order dated 31.08.2010 stands duly vacated. The amount deposited shall be disbursed to the claimants, forthwith, by the Commissioner.

February 17th, 2017

Sailesh

Whether speaking/reasoned:

Whether Reportable:

Yes/No

Yes/No

**(G.S. SANDHAWALIA)
JUDGE**