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

**FAO No.2506 of 2011 (O&M) and
Cross Objections No.91-CII of 2013
Date of decision: 24.1.2017**

Nishan Singh

... Appellant

versus

Rajinder Singh and another

.... Respondents

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

Present: Mr.Vipan Sharma, Advocate for
Mr.S.M.Sharma, Advocate for the appellant.

Mr.H.P.S.Ishar, Advocate for Cross-objector/respondent No.1.

Mr.Harsh Aggarwal, Advocate for respondent No.2.

<u>G.S.Sandhawalia,, J.</u>

The appeal has been directed against the order dated 30.11.2010 passed by the Commissioner under the Workmen's Compensation Act, 1923 Ambala filed by the employee, who was injured, during the course of employment. Vide the impugned order, a sum of Rs.49,428/- has been assessed payable on account of the injury and disability suffered by the employee on 5.3.2007. The said liability has been fastened upon the owner of the vehicle Rajinder Singh, who has filed separate Cross Objections bearing No.91/2013. The owner had been proceeded against ex parte vide order dated 17.12.2007 before the Commissioner. He had also filed an application for setting aside of the orders dated 17.12.2007 and 30.11.2010, which was rejected on 27.3.2012

(Annexure P4). Thereafter, he filed CR No.4260/2012 before the Court which was got dismissed as not pressed. Cross Objections alongwith Civil Miscellaneous application for placing on record copy of the Insurance Policy bearing No.150100310663000l7066 was accordingly filed. Thus, it is the case of the Cross Objector/owner that liability is to be fixed upon the Insurance Company and it was only fixed upon him on account of his non appearance. No reply has been filed to the Cross Objections to controvert the fact that the vehicle was insured or not and that the policy which has been appended, was not liable to be taken into consideration.

Keeping in view that both the sides, namely, the claimant and employer are not satisfied with the order of the Commissioner, this matter needs reconsideration, since the employer would be prejudiced in case the vehicle was duly insured and he is made liable to pay the amount. It is made clear that the opinion herein regarding the policy is a prima-facie opinion and it will be for the Insurance Company to take its appropriate stand before the Commissioner. Accordingly, the Appeal and Cross Objections are allowed and the impugned order dated 17.12.2007 alongwith order dated 30.11.2010 (Annexure P-4) are set aside.

Sh.H.P.S.Ishar, learned counsel for the Cross Objector/respondent No.1 submitted that a sum of Rs.86,000/- was deposited to satisfy the order and that has been received by the claimants. Needless to say that the Commissioner will keep that in mind while passing the final order.

The matter is accordingly remanded to the Commissioner to decide the matter afresh. Parties are directed to put in appearance before the Commissioner on 6.3.2016.

(G.S.Sandhawalia)
Judge

24.1.2017
Meenu