

FAO 1222/2016(O&M)

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

**FAO 1222/2016(O&M)
Date of decision:17.07.2017**

New India Assurance Company Ltd.

.....Appellant

v.

Sunita Rani and others

.....Respondents

Coram: Hon'ble Mr.Justice Jaswant Singh

Present:- Mr.Manmohan Singh,Advocate for the appellant

Jaswant Singh,J,(Oral).

Appellant Insurance Company is in appeal against the order dated 19.10.2015 passed by Commissioner,Ludhiana under the Employees Compensation Act,1923- cum-Assistant Labour Commissioner,Circle-6, Ludhiana whereby appellant alongwith respondent no.3 (owner of truck No. PB-10-BW-3755) have been held jointly and severally liable to pay compensation of Rs.4,33,820/- alongwith 12% interest to the respondents/claimants-parents of deceased Rajinder Singh, driver of the insured truck.

The impugned award has been challenged on two grounds i.e. firstly the deceased did not die during the course of his employment as the claimants could not prove any evidence to show that the deceased was in the employment of respondent no.3 herein; and secondly that the deceased driver was not holding a valid and effective driving licence.

After hearing the learned counsel for the appellant, I find no merit in these two submissions and the same are rejected for the reasons

FAO 1222/2016(O&M)

recorded below.

Respondent no.3, herein in his written statement had admitted that the deceased was working with him on his truck no. PB-10-BW 3755 as driver and died during and in the course of his employment. To prove the employer-employee relationship various documents in the form of notice Ex.A-1,A-2, postal receipt Ex.A-3, copy of DDR , Ex.A-4, Copy of post mortem report Ex.A-5 and death certificate A-6 were exhibited by respondent no.3-employer. Besides that employer had also tendered his affidavit as Ex.AW-1/A wherein he had reiterated the averments made in the claim application to the effect that deceased had died during and in the course of his employment and claimants were his only legal heirs. To rebut the same, appellant insurance company has led no oral/documentary evidence. Thus, bald assertion of the appellant Insurance Company that the deceased did not die during and in the course of his employment has been rightly rejected by the Commissioner.

As regards deceased not possessing a valid and effective driving licence, again the appellant Insurance Company has failed to lead any evidence to prove this aspect. No doubt, it produced letter dated 14.3.2014 written by PIO-cum-Assistant Regional Transport Officer (Admn.) Farrukhabad, addressed to Rijwaan Ali, Advocate, Farrukhabad, according to which as per record DL No.2631-Farru-2005 had been issued in the name of Rajbir s/o Shobha Ram, residence of Naharia Moda, Farrukhabad for motorcycle and LMV(Private) on 29.8.2005 and not to deceased Rajinder s/o Balbir Singh, however the said letter, for the reasons best known to the appellant-Insurance Company, was not got exhibited by examining the author of the said letter. Having failed to prove the said letter

FAO 1222/2016(O&M)

on record by examining the author of the letter dated 14.3.2014, no reliance can be placed on the said letter.

No other point has been raised.

In view of the above,finding no merit in this appeal the same is hereby dismissed.

17.07.2017
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(Jaswant Singh)
Judge

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No