

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

FAO No. 2398 of 2016 (O & M)

Date of decision: 14.03.2017

Reliance General Insurance Co. Ltd.

....Appellant(s)

Versus

Smt. Kopchi and others

...Respondent(s)

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

Present: Mr. Sanjeev Kodan, Advocate,
for the applicant-appellant.

G.S.SANDHAWALIA, J. (Oral)

C.M. No. 8670-CII of 2016

In pursuance of order dated 27.04.2016, additional affidavit of the Assistant Manager, Legal Claims and Authorized Signatory, Reliance General Insurance Company Ltd. has been filed explaining the delay of 107 days which has occurred in filing the appeal. Office to append the same at appropriate place.

Keeping in view the same, the application for condonation of delay is allowed.

Delay condoned.

FAO No. 2398 of 2016 (O & M)

The present appeal is filed against the order dated 06.11.2015 passed by the Commissioner, Panipat under the Employee's Compensation Act, 1923 whereby, sum of ₹8,67,640/- has been awarded alongwith interest @ 12% per annum from the date of accident upto the date of actual payment on account of the death of the employee namely Boman Bahadur. The

claim was filed by the legal representatives of the employee on the ground that the said employee, while performing his duties on a commercial vehicle namely a Canter, had met with an accident and received injuries due to which he succumbed to them. The factum of relationship and salary claimed was admitted by respondent no. 6, the owner of the vehicle. Resultantly, the issue of relationship of employer and employee and the fact that he died due to injuries in the accident were decided in favour of the claimants. The wife appeared as a witness and the post mortem report, alongwith ration card and death certificate alongwith FIR were tendered into evidence alongwith R.C. and the insurance policy apart from the relevant route permits and road tax permits of the vehicle in question. She claimed that the monthly salary was ₹8,000/- which, as noticed, was admitted by the employer. Accordingly, the Commissioner, keeping in view the fact that the deceased was 25 years of age and he had met with an accident and died due to the same which had occurred out of and during the course of the employment, he applied the relevant formula and has awarded the compensation. The liability has been fastened upon the insurance company keeping in view the fact that there was an insurance policy Ex.R-3 in place which was valid and was covering the date of accident.

Counsel for the appellant has vehemently submitted that there was no proof as such regarding the salary and ₹8,000/- was on the higher side and secondly, he did not possess any driving license which was exhibited and in the absence of the same, the Commissioner was not justified in awarding the compensation. It is relevant to notice that appeals under Section 30 are only to be entertained if there is a substantial question of law involved. It is pertinent to notice that the following issues were

framed before the Commissioner:-

“1. Whether there was relationship of employer & employee between Boman Bahadur S/o Yograj Bahadur & respondents as defined under the act?

2. Whether Sh. Boman Bahadur died due to injuries received by him in the accident which took place out of and during the course of his employment?

3. Whether the applicants are entitled to the amount of compensation? If so, to what extent and from whom?

4. Whether the claim application is maintainable in the present form?

5. Whether the application is bad for mis-joinder and non-joinder of necessary parties?

6. Relief.”

It is apparent from the above issues that no such substantial plea was ever taken as such before the Commissioner that the person did not have a valid driving license. If the said plea had been taken, the claimants would have placed on record the said license. Thus, no substantial question of law which is now sought to be agitated can be allowed to be raised in the absence of a factual foundation.

Similarly, the argument raised that sum of ₹8,000/- was on a higher side is also without any basis. The employer himself admitted the fact of the employment and never denied that the claim @ ₹8,000/- was not justified. It is also pertinent to notice that the vehicle in question was a commercial vehicle and the driver as such was employed on such a vehicle and, therefore, the amount which has been awarded as per the statutory requirement and the same was also based upon a salary certificate which

also depicted his age (Exs. R-1 and R-2).

In such circumstances, the basis of the order is well justified and warrants no interference and the present appeal is accordingly dismissed.

14.03.2017
shivani

(G.S. SANDHAWALIA)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No