

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

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**FAO No. 1240-1993 (O&M)
Date of Decision : 12.2.2018**

M/s. SHIVALIK PACKAGINGS PVT. LTD.APPELLANT

VS

SMT. RAMA PANDEY AND OTHERSRESPONDENTS

CORAM: HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr. Sanjeev Sharama, Senior Advocate with
Mr. Shekhar Verma, Advocate
for the appellant.

AJAY TEWARI, J.(Oral)

This appeal has been filed against the award of the Commissioner under the Workmen's Compensation Act awarding an amount of Rs. 81440/- on the death of husband of respondent No.1.

The case set up by the respondents was that deceased-husband of respondent No.1 was an employee of the appellant and when he was returning from work on a scooter owned by the appellant and given to him he met with an accident and died. The claim of the appellant was that firstly, the deceased was not a workman and secondly, the circumstances in which he died could not give rise to a claim for compensation. As regards the contention that the deceased was not a workman RW-1 who was working as a Production supervisor testified that the deceased was originally working as a Production Superintendent but had been promoted as a Production Manager. In support of this he produced photocopies of the promotion order. It was

not stated by him that copies which were produced were the carbon copies of the original. In my considered opinion, in the absence thereof, this was secondary evidence which could not have been led without permission. Similarly also produced photocopies of documents in which the deceased had signed and below that his designation was mentioned as a Production Manager. In my considered opinion, the production of these photocopies would also amount to secondary evidence and could not be read without permission. Consequently, no fault can be found in the finding of the Commissioner that the deceased was not proved to be outside the parameters of 'workman'. The second argument raised by the learned Senior counsel is that in the FIR relating to the death (which was lodged by the brother of the deceased) it was mentioned that the body was found near a broken bridge. As per the learned Senior counsel the action of the deceased in driving over a broken bridge clearly disintitiled the claimants seeking compensation. This argument also does not cut any ice. Admittedly the informant had not seen the death taking place. In the circumstance, to jump into the conclusion that he was driving over a broken bridge is a pure conjecture.

The appeal stands dismissed.

Since the main case has been decided, the pending C.M, if any, also stand disposed of.

12.2.2018
anuradha

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned	-	Yes/No
Whether reportable	-	Yes/No