

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 179 of 1997(O&M)

Date of decision: 18.04.2018

Smt. Chhano

...Appellant

Vs.

Shri Vipti Gujjar alias Bhagatji

....Respondents

CORAM: HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr. Parveen Kaushal, Advocate
for the appellant.

Mr. Aseem Aggarwal, Advocate
for the respondent.

AJAY TEWARI, J.(ORAL)

This appeal has been filed against the order dated 30.09.1996 passed by the Commissioner, Gurgaon under the Workmen's Compensation Act, 1923 dismissing a claim application.

The case of the appellant was that her son was employed as a watch man on the farm of the respondent to guard against stray animals and on the fateful night while he was doing his duty his foot was injured by some barbed wire, that wound turned septic and he died and that is why she filed the claim for compensation.

The case of the respondent on the other hand was of blanket denial. He denied that he had ever employed the deceased in any capacity. Two witnesses including the appellant testified that the deceased was employed with the respondent.

On the other hand the respondent appeared himself and examined two witnesses. One of the witnesses examined by the respondent stated that actually he was employed with the respondent and the deceased had never been employed with the respondent. The second witness appeared on behalf of the respondent stated that he was the neighbour of the respondent and he had never seen the deceased working on the fields of the respondent. The Commissioner held that in these circumstances the appellant was not able to prove that the deceased was employed with the respondent and further went on to hold that in any case the deceased would not fall within the definition of Workman. To decide this appeal it would not be necessary for me to decide the second issue since as regards the first issue, after having been taken through the testimony of the witnesses, I am not in a position to hold that the preponderance of probability was on the side of the appellant. The evidence shows that at best it is a case where the appellant could be right and equally where the respondent could be right.

In the result the appeal is dismissed.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

April 18, 2018

Poonam (II)

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No