

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

**376**

**FAO No.2459 of 1997 (O&M)**

**Date of Decision : 16.05.2018**

National Insurance Company Ltd.

..... Appellant

Versus

Sh.Bashant Singh and others

..... Respondents

**CORAM : HON'BLE MR.JUSTICE AJAY TEWARI**

**\*\*\***

Present:- Mr. Neeraj Khanna, Advocate for  
Mr. Ravinder Arora, Advocate  
for the appellant.

Ms. Rahish Pawa, Advocate  
for respondents No.1 and 2.

None for respondent No. 3.

**\*\*\***

**AJAY TEWARI, J. (Oral)**

This appeal has been filed by the Insurance Company against the order dated 29.08.1997 passed by the Commissioner, Kurukshetra under the Workmen's Compensation Act, 1923 (for short the Act).

The case of respondents No.1 & 2 was that the claimant was working as a Driver with respondent No.3 and when he was coming back from Calcutta to Delhi he stopped the truck near Kanpur and while he was easing himself near the railway track, he was killed by a train and they consequently sought compensation. The respondent No.3 filed a reply, accepting that the deceased was his employee but stated that while at Calcutta he had informed him that he had some personal work at Kanpur

and would be staying there and that is why respondent No.3 had arranged a second driver. It is however, noteworthy to mention here that respondent No.3 did not come forward to prove this fact by either appearing in evidence himself or by examining any other person. It was in these circumstances that the Commissioner accepted the testimony of the claimant and chose to disregard the stand of respondent No.3.

Learned counsel for the appellant has not been able to show me how the stand of respondent No.3 could be established without him even appearing in the witness box or leading any evidence. In the circumstances, this argument is rejected. The second argument which was raised that the Insurance Company is not liable to pay the interest. This matter is no longer *res integra*.

Appeal stands dismissed.

Since the main case has been decided, the pending Civil Misc. Application, if any, also stands disposed of.

**16.05.2018**  
*Pooja sharma-I*

**( AJAY TEWARI )**  
**JUDGE**

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No