

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

FAO No. 3013 of 2008 (O&M)
Date of decision : March 26, 2018

New India Assurance Co. Ltd

..... Appellant

v.

Gurdev Singh and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. Suman Jain, Advocate
for the appellant.

Ajay Tewari, J (Oral)

This appeal has been filed against the Award passed by the Commissioner under the Workmen's Compensation Act, 1923.

Brief facts are that the deceased Bachittar Singh was a truck driver. On 4.3.2001, he was sleeping in the cabin of the truck and fell down and received head injuries and later on died. The Tribunal allowed the claim petition and awarded a sum of ₹ 2,95,590/- along with interest @ 12% pa from the date of filing the petition i.e 2.4.2002 till the date of payment and the respondents were held jointly and severally liable to make the payment.

Counsel for the appellant-insurance company has argued that the claimants had not been able to prove that Bachittar Singh was the employee of respondent-employer because no written contract of appointment or any other evidence was placed on record. In my considered

opinion, this argument must fail. It is well known that such kind of jobs are seldom accompanied with a written contract of appointment. Had the respondent-employer appeared in the witness box and was cross-examined on his claim that Bachittar Singh was not his employee, something may have been said, but in his absence, the insurance company cannot be heard to say that the claimants were not able to prove that Bachittar Singh was an employee of respondent-employer. Consequently, finding no merit this appeal is dismissed.

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

March 26, 2018
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(AJAY TEWARI)
JUDGE

Whether speaking/reasoned:
Whether Reportable:

Yes/No
Yes/No