

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

FAO No. 8205 of 2014(O&M)

Date of decision: 10.12.2018

Karanti @ Neelam and others

.....Appellants

VERSUS

Mahender Singh

.....Respondent

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Rajesh Gupta, Advocate for the appellants.

Mr. Sukesh K. Jindal, Advocate for the respondent.

REKHA MITTAL, J. (Oral)

The present appeal directs challenge against order dated 21.05.2014 passed by the Commissioner under the Employee's Compensation Act, 1923 (in short 'the Act'), Panipat whereby application filed by Karanti @ Neelam and others for grant of compensation on account of death of Vijay Verma while discharging his duty under the employment of respondent was dismissed by recording findings on preliminary issue qua maintainability of the application in view of the objection raised by respondent/employer.

Perusal of the impugned order would reveal that there is a serious controversy between the parties if claim filed by the appellant before the Commissioner is or is not maintainable keeping in view the provisions of Section 53 and 61 of the Employees' State Insurance Act, 1948.

Counsel for the appellants would urge that as Vijay (since deceased) was registered with Employees State Insurance Corporation subsequent to the occurrence in question on the basis of information purported to be sent by his employer, effect of document (Annexure A-1) sought to be produced by way of additional evidence is required to be examined in the given circumstances.

Counsel representing the respondent, on the contrary, has supported the impugned order but has raised no serious objection if the matter is remitted to the Commissioner for deciding the preliminary issue afresh but with liberty to the parties to produce documents in support of their respective contentions.

Counsel for the appellants has conceded that the matter may be remitted to the Commissioner for decision of the preliminary issue afresh by providing the aforesaid liberty.

In view of the above, the appeal is allowed. The impugned order is set aside and the matter is remitted to the Commissioner under the Employee's Compensation Act, Panipat for decision of preliminary issue afresh but after affording opportunity to the parties to produce documents in support of their respective contentions.

The parties through their counsel are directed to appear before the Commissioner on 21.12.2018.

DECEMBER 10, 2018

'D. Gulati'

(REKHA MITTAL)

JUDGE

Whether speaking/reasoned :

yes/no

Whether reportable :

yes/no