IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.1785 of 2018 (O&M)
Date of decision : 13.07.2018

ICICI Lombard General Insurance Company Ltd.

...Appellant

Versus

Kuldeep Kaur and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Sanjeev Goyal, Advocate for the appellant.

****

ANIL KSHETARPAL, J. (ORAL)

CM No.6948-CII of 2018

For the reasons stated in the application, which is duly supported by an affidavit, delay of 69 days in filing the present appeal is condoned.

Application is allowed.

CM No.6947-CII of 2018

Exemption as prayed for is granted.

Application is allowed.

Main Case

The Insurance Company is in the appeal against the award passed by the Commissioner under the Employee's Compensation Act, 1923. Sukhdev Singh who was working as a driver had died in an accident. His legal heirs filed a claim petition before the Commissioner which has been allowed by the Commissioner awarding a sum of ₹7,30,480/- alongwith simple interest at the rate of 9% p.a. The quantum of compensation awarded is in accordance with the statutory provisions and not challenged before this Court.

Learned counsel for the appellant has submitted that Late Sh. Sukhdev Singh was an employee of K.G. Industries (Partnership Firm) whereas vehicle belonged to Sohrub Jindal, its partner and, therefore, the claim petition was not maintainable.

It may be noted that Sohrub Jindal is undisputedly a partner in the firm and was insured. A partnership firm itself is not a legal entity. Certain persons get together and constitute a partnership firm to run the business jointly. In such circumstances, it would not be correct to hold that K.G. Industries and Sohrub Jindal were two separate legal entities.

Next argument of the learned counsel is that the mandatory notice under Section 10 of the Employee's Compensation Act, 1923 was not served upon Insurance Company or Sohrub Jindal or K.G. Industries. However, when pointed out, learned counsel for the appellant admitted that this objection was not taken/raised before the Commissioner. The Employee's Compensation Act, 1923 has been enacted for the benefit of the workers who lost their life or suffer injury. This is a welfare legislation.

In such circumstances, in absence of any objection before the Commissioner, this Court does not consider it appropriate to permit the appellant to raise such an objection for the first time in the appeal.

The questions of law which are proposed by the counsel for the Insurance Company do not arise in the present case particularly when the insured has not disputed the employment of late Sh. Sukhdev Singh.

In view of the above, the present Appeal is dismissed.

13.07.2018 **(ANIL KSHETARPAL)**
Pawan **JUDGE**

Whether speaking/reasoned:- **Yes/No**

Whether reportable:- **Yes/No**