

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

103

FAO No.5040 of 2017 (O&M)

Date of Decision : 27.3.2018

Shri Ram General Insurance Company Limited

....Appellant

vs.

Rajni and others

....Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr. Punit Jain, Advocate
for the appellant(s).

AJAY TEWARI, J. (Oral)

CM-15395-96-CII-2017

These are two application for condonation of delay of 256 days and 223 day in refiling and filing the appeal respectively.

For the reasons recorded in the application, the same is allowed and delay of 256 days and 223 day in refiling and filing the appeal is condoned.

Main Case

This appeal has been filed against the award of the Commissioner under the Employees Compensation Act awarding an amount of Rs.6,12,675/- for the death of Amrik Singh. The claim of the respondents-claimants was that deceased-Amrik Singh was a driver and had died in a mishap during the course of his employment. The respondent No.-5-owner filed a written statement denying either Amrik Singh's employment or the fact that he had died in an accident which involved his truck. He

however did not appear for testimony and that is how the claim was allowed.

The argument raised by the learned counsel is that employer and employee relationship has not been established. It is however a matter of common knowledge that there is normally no written contract of employment for a driver on a private vehicle and consequently mere absence thereof cannot lead to the conclusion that there was no relationship. As regards the second argument that owner had denied the relationship, the same can be easily disposed of because this argument could have been pressed only if the owner had stepped in the witness box and given his own testimony and been subjected to cross-examination. In his absence, the sworn testimony of the claimants could not have been ignored.

Consequently, the appeal stands dismissed.

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

27.3.2018
anuradha

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No