

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

FAO No.881 of 2018 (O&M)
Date of decision: August 27, 2018

Magma HDI General Insurance Co. Ltd. ...Appellant

Versus

Sarya and others ...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Ms. Manjeet Kaur, Advocate for
Mr. Pankaj Mehta, Advocate for the appellant.

Rajan Gupta, J.

Appellant Magma HDI General Insurance Company Ltd. has impugned the award dated 25.07.2017, passed by Commissioner under Employees Compensation Act, 1923, Rewari, whereby compensation has been awarded to the claimants on account of death of Khurshid in the accident.

Learned counsel for the appellant has argued that there was no relationship of employer and employee between respondent No.11 (owner) and the driver i.e. Khurshid (now deceased), therefore, respondents No.1 to 10/claimants were not entitled to any compensation. Moreover, the authority has awarded compensation to the claimants on higher side.

I have heard learned counsel for the appellant and given careful thought to the facts of the case.

Khurshid (now deceased), husband of claimant No.1, father of

claimants No.2 to 9 and son of claimant No.10, was working as driver with respondent No.11 Balwant Singh on vehicle No.HR-47/C-0628. In the intervening night of 14/15.5.2015, he while driving the said vehicle met with an accident and on reaching PGIMS, Rohtak, he was declared dead. FIR No.66 dated 15.5.2016 was lodged in Police Station Bawal, District Rewari regarding the said accident. A claim application under Section 22 of the Employee's Compensation Act, 1923 was filed by the claimants. In support of their case, claimant No.3 examined himself as AW-1 and claimant no.1 as AW-2 and also tendered documents Ex.A-1 to A-11 in their evidence. On the other hand, respondent No.1 tendered documents Ex.R-1 to R-7, while respondent No.2 tendered document Ex.R-8. On appraisal of evidence, the Commissioner under the Act came to the conclusion that deceased was working with respondent No.11, who died during the course of his employment. As regards quantum of compensation, the authority observed that deceased was 46 years of age at the time of his death. He was getting salary of Rs.8000/- per month. By applying relevant factor of 166.29, the tribunal granted Rs.6,70,160/- (Rs.6,65,160/- as compensation plus Rs.5000/- as funeral expenses) to the claimants alongwith interest @ 12% per annum from the date of accident till the actual payment and the appellant insurance company was directed to pay the aforesaid amount to the claimants within 60 days from the date of order.

There appears to be no apparent error in appraisal of evidence by the tribunal. In my considered view, there is no infirmity with the findings arrived at by the Tribunal. The appellant did not adduce any evidence to prove that it was not liable to pay the amount of compensation.

The appeal is without any merit and is hereby dismissed.

CM-2867-CII-2018 & CM-2868-CII-2018:

Since the main appeal has been dismissed on merits, these applications do not survive and the same are also dismissed.

August 27, 2018
'Rajpal'

(RAJAN GUPTA)
JUDGE

Whether speaking / reasoned	Yes / No
Whether Reportable:	Yes / No