

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

**CWP No.3639 of 2004 (O&M)  
Date of Decision: 21.02.2019**

Smt. Sukhjeet Kaur and others

... Petitioners

Versus

State of Punjab and others

... Respondents

**CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA**

Present: Mr. R.S. Bains, Advocate,  
for the petitioners.

Ms. Jasleen Sidhu, AAG, Punjab.

Mr. Deepak Suri, Advocate,  
for respondent No.3.

Mr. Sukhjit Singh, Advocate,  
for respondent No.5.

\*\*\*

**RAJIV NARAIN RAINA, J.(Oral)**

1. Heard. I am constrained to say that this petition presenting a peculiar situation of the identity of the deceased deserves to be dismissed for the following reasons:-

2. A fatal motor accident happened in 1995. Petitioner No.1 says that it was her husband who died of injuries received in the accident. He was a cleaner with the Truck. Soon after the accident, a person, namely, Shinder Kaur claiming to be the wife of the deceased cleaner promptly filed an application under Section 10 of the Employees' Compensation Act, 1923 and secured a compromise with the Insurance Company. The compromise was in Court signed on December 26, 2002.

3. The present petitioner Sukhjeet Kaur and others claiming to be the wife/family members of the late Sadhu Singh, cleaner filed the present

writ petition in 2004 claiming the amount of compensation which was decreed in favour of Shinder Kaur, the mother of Karnail Singh who already said to have been the Cleaner of vehicle. There is a stay operating in this case and amount of about ₹90,000/- and odd which has not been disbursed with interest as compromised lying deposited before the Workman's Compensation Commissioner. The dispute is as to the identity of the Cleaner, was it Karnail Singh or Sadhu Singh. The record reveals that Karnail Singh belongs to Village Dhudike in District Moga. Chamkaur Singh who was the owner of the Canter also belongs to Dhudike village. He was a party in the application filed by Shinder Kaur which was settled by way of compromise with the Insurance Company discharging the amount by deposit before the Commissioner Workmen's Compensation, Moga.

4. In the petition, the allegations of the petitioners are that respondent No.5 Shinder Kaur had obtained the impugned order in her favour in connivance with the officers of the Insurance Company and the claim petition of respondent No.5 was allowed on the basis of mutual agreement between respondent No.5 and the Insurance Company. Petitioners further allege that the impugned order was passed in the absence of the owner of the vehicle and they were not aware of the said proceedings. Therefore, they are entitled to receive compensation awarded under the Workmen's Compensation Act. It is submitted that the petitioners had also filed claim petition before the Commissioner, Moga- respondent No.2. However, the said claim petition was dismissed in default vide order dated 29.10.2003 because the counsel for the petitioners failed to appear in the said petition.

5. About eight and half years after the death of the cleaner, the present petitioner Sukhjeet Kaur and others filed the present petition on March 01, 2004. The operation of the order Annex P-8 was stayed by the division bench by interim order dated March 02, 2004.

6. The proviso to Section 10 (1) (b) of the Act provides that the Commissioner may entertain and decide any claim to compensation in any case notwithstanding that the notice has not been given, or the claim has not been preferred, in due time as provided in sub-section (b), if he is satisfied that the failure so to give the notice or prefer the claim, as the case may be, was due to sufficient cause. It is this sufficient cause which has not been explained in this writ petition covering the delay in seeking legal redress. The delay of over eight years cannot be said to be reasonable and it shows that Sukhjeet Kaur was satisfied for eight years before she filed the present writ petition. The record reveals that the petitioner's husband belonged to a far away Village Takhan Badh in District Moga which is far away from Village Dudike but in the same District.

7. I have heard learned counsel for the parties and perused the file.

8. As already said, the present petition deserves to be dismissed on the ground of delay alone. The accident had taken place in the year 1995 and the claim was passed in the year 2002 in favour of respondent No.5. The petitioners had never moved an application claiming compensation before any authority during the period 1995 to 2003. The claim petition filed by the petitioners on 01.07.2003 was dismissed in default by the Commissioner, Moga on 29.10.2003. No steps were taken to pray for revival. The present petition was filed on 01.03.2004. I would not favour

the argument advanced by the learned counsel for the petitioners that they had no knowledge of the claim petition filed by respondent No.5 or the impugned order has been obtained in connivance with the Insurance Company. The Insurance Company in its reply has clearly denied the allegation of connivance stating that the Commissioner on being fully satisfied with the claim of respondent No.5 found her entitled to receive compensation and settled the dispute by way of compromise party agreeing to accept the amount of compensation proposed by the Company. The same was deposited by the Insurance Company in the court of the Commissioner.

9. In view of the above, the petition calls for no interference and is hereby dismissed. The amount of Rs.90,088/- deposited by the Insurance Company in pursuance to order dated 26.12.2002 passed by the Commissioner be released to respondent No.5 immediately failing which the amount shall carry interest at the rate of 10% per annum till payment.

**(RAJIV NARAIN RAINA)**  
**JUDGE**

**21.02.2019**

manju

Whether speaking/reasoned Yes

Whether reportable Yes/No