

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

211

FAO-1649-2014(O&M)

Date of Decision : December 16, 2019

BISHAN PARKASH

.....Appellant

VERSUS

MAMTA AND ORS

.....Respondents

CORAM: HON'BLE MS. JUSTICE NIRMALJIT KAUR

Present : Mr. T.C.Dhanwal, Advocate
for the appellant.

Mr. Sandeep Goyal, Advocate
for respondents No.1 to 3.

Mr. D.K.Mittal, DAG, Haryana.

NIRMALJIT KAUR, J. (Oral)

The present appeal is filed against the award dated 11.2.2014 vide which the Commissioner granted compensation of Rs.6,41,807/- under the Employees Compensation Act, 1923 Circle Hisar.

While praying for setting aside the said award, learned counsel for the appellant raised three fold arguments. Firstly, the incident has occurred much prior to the commencing of the work. Therefore, it cannot be said that the deceased was at that point of time working with the appellant. Secondly, the appellant was a Contractor engaged by respondents No.5 and 6 which is the State Government. Therefore, Government being the principal employer is liable. The third argument is that the incident did not take place at the place of work and nor is it on account of the work or while performing the work assigned to him.

Learned counsel for the parties were heard at length.

The first argument has no merit. The contract was allotted to the appellant by the State Government and in pursuance to the allotment of the said contract, an agreement was signed between the appellant and the State Government on 26.12.2011. The incident took place on 26.1.2012. Thus, the work had already commenced.

The second argument too has no merit. As per Clause 9 of Annexure R-4 which is the agreement between the appellant and the State Government, the appellant was responsible for all risks of loss or damage to physical property and of personal injury and death which arise during and in consequence of the performance of the Contract. Accordingly, it is the appellant, who was rightly held liable.

The third argument that the incident did not take place at the site of the work too has no merit.

Admittedly, the work allotted to the Contractor was on the Canal Neola Minor and the incident took place at Narwana Branch of the same Canal, at a distance of two meters only while the deceased was trying to save his niece, who fell into the said Canal where the work was going on while she was taking water. Unfortunately, he could not save her and both of them drowned. Therefore, to say that the place of occurrence was different from the place of work has no merit. Further, it is a known fact that normally the labour alongwith their families reside for months together and some times years together at the construction site. No facilities are provided to them. Even, the water facilities are not

provided which should normally be the duty of the Contractor. The entire evidence on record shows beyond doubt that the said incident had occurred at the place of work.

In view of the above, this Court finds no reason to interfere in the well reasoned detailed order passed by the Tribunal.

Dismissed accordingly.

December 16, 2019
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(NIRMALJIT KAUR)
JUDGE

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