

In the High Court of Punjab and Haryana at Chandigarh

**FAO- 4689 of 2018(O&M)
Date of Decision: 9.4.2019**

New India Assurance Company Limited

---Appellant

versus

Charanjit Kaur and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Vinod Gupta, Advocate for the appellant

Rekha Mittal, J.

The present appeal directs challenge against award dated 28.2.2018 passed by the Commissioner, Bathinda under the Employees' Compensation Act, 1923 (in short "the Act") whereby compensation has been assessed on account of death of Tejpal Singh cleaner -cum- labourer on truck No. PB-03P-9303 of Sukhpal Singh-respondent No. 4.

Counsel for the appellant would argue that as licence, if any, possessed by driver of aforesaid truck was not produced before the authority below, an inference can be drawn that Darshan Singh did not possess a licence to drive the vehicle, in compliance with terms and conditions of insurance policy issued in favour of Sukhpal Singh-respondent No. 4. It is argued that the insurance company is entitle to be exonerated of liability to pay compensation or in the alternative can press for right of recovery against the insured after payment of compensation to the claimants.

Another submission made by counsel is that Sukhpal Singh-respondent No. 4 filed reply and denied the factum of employment of Tejpal Singh on the truck in question but later Sukhpal Singh was proceeded against ex parte. It is further argued that there is absence of sufficient much

less cogent evidence to establish that Tejpal Singh was an employee of Sukhpal Singh and he sustained injuries during the course of employment.

Apart from the fact that there is delay of 87 days in filing the appeal, the appeal sans merit and deserves to be dismissed.

The first contention raised by counsel for the insurance company with regard to driving licence is answered against the insurance company in the light of judgment of this court “**New India Insurance Company Limited vs. Bawa Singh and others**” FAO No. 993 of 1996 **along with connected cases decided on 27.3.2019.**

The claimants examined a witness to prove that Tejpal Singh was employed on the truck in question. Respondent No. 2 before the Tribunal filed the reply and denied the factum of employment but later absented from the proceedings. The insurance company did not call upon him to appear in the witness box to say on oath that there was no relationship of employee and employer between the deceased and respondent No. 2 therein. In the given circumstances, I do not find an error much less illegality in findings of the Commissioner accepting that the deceased was an employee of Sukhpal Singh and he sustained injuries in the course of employment, that proved fatal.

No other point has been raised.

For the foregoing reasons, the appeal fails and is accordingly dismissed in limine.

(Rekha Mittal)
Judge

9.4.2019

PARAMJIT	Whether speaking/reasoned	: Yes
	Whether reportable	: Yes/No