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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **FAO 45/2017, CM. APPL. Nos.3049-3050/2017**

Date of Decision: 07.10.2022

IN THE MATTER OF:

TRACKON COURIERS PVT. LTD.

..... Appellant

Through: Mr.Prashant Kumar Mittal and
Ms.Dristi Bana, Advocates (Through
V.C.)

versus

SH. BEGRAJ SINGH & ANR.

..... Respondents

Through: Mr.V.K.Singh, Ms.Prochi Singh,
Ms.Yakshi Rawal and Mr.S.Kumar,
Advocates for respondent No.3
alongwith Sh.Arvind Kumar Bansal,
SSO, ESIC.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT

MANOJ KUMAR OHRI, J. (ORAL)

1. By way of the present appeal filed under Section 30 of the Employees' Compensation Act (hereinafter, referred as the 'Act'), the appellant/respondent No.1 has challenged the *ex-parte* order dated 22.02.2016 passed by the learned Commissioner, Employees' Compensation, Vishwakarma Nagar, Jhilmil Colony, Delhi - 110095 in Case No. CEC-D/NE/61/2015/504,505 titled as Sh. Begraj Singh & Anr. v. M/s



Trackon Couriers Pvt. Ltd. & Anr.

2. Mr.Prashant Kumar Mittal, learned counsel for the appellant submits that the learned Commissioner erred in not appreciating the fact that the deceased-*Vikram Singh* was employed with the appellant only on 05.12.2013 and wrongly held that the employment began on 15.07.2008. In this regard, he has referred to the employment details uploaded on the online Portal of respondent No.3. Insofar as the employment date of 15.07.2008 mentioned in paragraph No.4(c) of the present appeal is concerned, it is stated that the same was a typographical error.

3. Mr.V.K.Singh, learned counsel for respondent No.3, on the other hand, while refuting the aforementioned submissions of learned counsel for the appellant, submits that the appellant had uploaded the employment details only on 12.12.2013 on the online Portal of ESI, which was rather an afterthought and done in order to avoid its liability under the Act. He also submits that at the time of uploading the details of the employee, the employer is also required to upload documents including appointment letter, identification documents like Aadhar Card in support of proof of date of birth as well as a certificate by the employer to the effect that the employee was not suffering from any kind of disease, which has not been done in the present case. Lastly, it is submitted that the appellant has also failed to furnish any document in terms of Regulation 12 of the Employees' State Insurance (General) Regulations, 1950.

4. I have heard learned counsels for the parties and have also gone through the entire case record.

5. A perusal of the record would show that respondent Nos.1 and 2/claimants i.e., the parents of the deceased-*Vikram Singh* have filed a claim



petition under Section 22 of the Act. It was stated that the deceased was employed as a delivery boy with the appellant since 15.07.2008 at a salary of Rs.7,500/- per month and was posted at its branch office. On 11.12.2013, while the deceased was returning to the office after completing the work assigned to him of delivering the articles/bags/letters/couriers, he met with an accident at *Maharajpur Railway Crossing, Shahibabad, Ghaziabad, U.P.* resulting in fatal injuries. It was stated that *Vikram Singh* died at the spot. A case was registered at P.S. Link Road and post-mortem of the deceased was conducted in *MMG Hospital, Ghaziabad, U.P.* It was further stated by the claimants that the deceased was the only earning member in the family and after his demise, they had no source of income.

It is borne out from the record that summon were repeatedly issued to the appellant but it failed to appear despite service. Eventually, on 21.11.2015, the appellant was proceeded *ex-parte*. The claimants have filed their evidence by way of an affidavit as well as the documents in support of their claim including the copies of the police examination documents, Aadhar cards, election identity card and delivery reports/detailed track events, which were exhibited as Ex. CW1/A to CW1/E.

6. As per copy of election identity card, deceased was 23 years of age as on 01.01.2008. The learned Commissioner after considering the age of the deceased as 29 years at the time of accident as well entire evidence on record directed the appellant to deposit a sum of Rs.8,39,680/- as compensation on account of death payable to respondent Nos.1 and 2 alongwith interest @ 12% p.a. w.e.f. 11.12.2013 till its realization within a period of thirty days.

7. A perusal of the record would show that in the proceedings before the



Commissioner, the claimants had averred by way of an affidavit that the deceased was employed with the appellant since 15.07.2008. The averment remained uncontested as the appellant failed to appear and contest the claim. In the present appeal, though the appellant has taken a stand that the deceased was employed since 05.12.2013, however the same has not been supported by any document except the registration details of the deceased uploaded on the online Portal of ESI after his death on 12.12.2013.

8. Learned counsel for the respondents have drawn the attention of the Court to the following categorical admission that has been made in paragraph No.4(c) of the appeal, which reads as under:

“That the deceased son of the dependant was the permanent employees of the respondents as a delivery boy and was posted at above mentioned branch office of the respondent and was getting salary of Rs .7500/- per month. It is submitted that the deceased was employed with the company since 15.07.2008.”

(emphasis added)

9. It was admitted that the deceased employee was an insured person having ESI (Insurance) No. 1114272916 and ESI Code (Employer’s Code) No. 11000808570001001 as defined in the ESIC Act.

10. Even if the admission made in the appeal is ignored, there is no gainsaying that the appellant has failed to produce any document to substantiate that the deceased was employed since 05.12.2013, which only finds mention in the registration details uploaded online. Resultantly, I am of the opinion that the reliance placed by the appellant on the registration details of the deceased uploaded on the online Portal on 12.12.2013 i.e., after the death of the deceased is misplaced and of no consequence



especially when the claimants' case remain uncontested in the proceedings before the learned Commissioner. This Court also finds force in the submission made on behalf of respondent No.3 that the registration details of the deceased uploaded online after the death was rather an afterthought to evade the liability of the claim.

11. Keeping in view the foregoing discussion, the present appeal is dismissed. Let the amount deposited before the Registrar General of this Court alongwith interest accrued thereupon be released to respondent Nos.1 and 2/claimants forthwith.

12. Pending applications are disposed of as infructuous.

13. A copy of this judgment be forwarded to the concerned Commissioner for information.

(MANOJ KUMAR OHRI)
JUDGE

OCTOBER 7, 2022/v

न्यायमेव जयते