

212

ORIENTAL INSURANCE COMPANY LTD.

..APPELLANT

VS.

HOSHIARU RAM AND OTHERS

..RESPONDENTS

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Vinod Chaudhry, Advocate
for the appellant/Insurance Company.

Mr. Rajinder Goyal, Advocate
for respondents No.1 and 2.

Respondent No.3 already reported to have died.

KARAMJIT SINGH, J.(ORAL)

The present appeal has been filed by appellant/Insurance Company against the order dated 14.10.1997 passed by Commissioner under the Workmen Compensation Act, Karnal whereby compensation worth Rs.1,64,040/-including penalty, interest and expenses was awarded to claimants/respondents No.1 and 2.

The brief facts of the case are that claimants are parents of deceased Tej Pal alias Tej Ram who was employed with respondent No.3-Ramesh Kumar as cleaner on his Truck No.HR-07-5695 which was insured with appellant/Insurance Company. That on 04.02.1992 the said truck was driven by Madho Ram and he parked the same in the area of Hansi road and Tejpal its cleaner slept in the said truck and on the next day early in the morning Madho Ram came there but the truck was found missing and then matter was

POONAM SHARMA
2023.11.30 14:09 reported to the police and in the afternoon dead body of Tej Pal was found
I attest to the accuracy and
integrity of this document

near Village Munak and the truck in question was taken away by some unknown persons. At that time deceased was 22 years of age and was drawing a monthly wages of Rs. 900 plus daily allowances.

Notice of the claim application was issued to the employer and Insurance Company. Respondent No.3 admitted that the deceased was working on his truck and he also admitted that Tejpal died during the course of employment under him.

However, the claim petition was contested by appellant/Insurance Company on the ground that there was no relationship of employee and employer between deceased and respondent No.3 ; even the factum of alleged incident was also denied and it was pleaded that claim application be dismissed.

On the pleadings of the issues were framed are as under:-

1. Whether the claim of the claimants is correct if, so, they are entitled to get how much compensation?
2. Whether deceased was covered under the Insurance Policy?
3. Relief.

In order to prove their claim claimant No.1 appeared in witness box as AW-1 while employer examined RW-1 Ashok Kumar and S.C. Mehta, Managing Director as RW-2. Counsel for Insurance Company tendered Insurance policy Exhibit R-2. Thereafter, claimants produced copy of FIR Exhibit A-1 and that of postmortem report A-2 by way of additional evidence.

The Court of Commissioner after hearing both the parties allowed the claim application and granted compensation as has been detailed above in

favour of the claimants and against the appellant/Insurance Company.

Being aggrieved the present appeal is filed by appellant/Insurance Company.

The appeal is being contested by respondents No.1 and 2. Respondent No.3 is reported to have died and the counsel for the appellant/Insurance Company has made statement that it is not possible for the Insurance Company to implead the LRs of respondent No.3 as no information is available regarding them with the Insurance Company.

I have heard the counsel for the parties and gone through the record of this case.

The counsel appearing on behalf of the appellant has *inter alia* contended that the claimants have failed to prove relationship of employee and employer between the deceased and respondent No.3 and further the amount of compensation awarded by the Commissioner is on higher side. The counsel appearing on behalf of respondents No.1 and 2 while supporting the impugned award has submitted that there is no illegality in the same.

I have considered the submissions made by counsel for the parties.

From the perusal of the record, it is evident that partner of the employer firm while appearing in the witness box as RW-1 admitted the relationship of employee and employer between deceased and respondent No.3 and even the factum of incident which resulted into death of Tejpal was not disputed by RW-1. The employer also admitted the monthly wages of deceased as Rs.900/- plus Rs.20/- as daily expenses. There is also no dispute with regard to age of the deceased who was 22 years of age at the time of incident. In the given circumstances the compensation of Rs.88,548/- and

penalty of Rs.44,274/- assessed by the Commissioner was just and reasonable.

Further Workmen Compensation Act is a social beneficial legislation and as per the law laid down by Hon’ble Supreme Court in **Golla Rajamma and Other Vs. Divisional Manager and Another (2017)1 SCC 45**, the Workmens’ Compensation Commissioner is the last authority on the facts under the scheme of Workmen Compensation Act and Section 30 of the Workmen Compensation Act is restricting scope of the appeal only to substantial questions of law, being a welfare legislation.

In light of the above, as no perversity has been demonstrated in the impugned order by the counsel for the appellant, and no substantial question of law is involved in the present case, the appeal is hereby dismissed being devoid on merits.

Pending applications, if, any, stand disposed of.

November 28, 2023
Poonam Sharma

(KARAMJIT SINGH)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No