

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

CR-2939-2023(O&M)

Date of decision:-12.5.2023

United India Insurance Company Ltd.

...Petitioner

Versus

Smt.Neelam and others

...Respondents

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.S.S. Sidhu, Advocate
for the petitioner.

H.S. MADAAN, J.

1. Under challenge in this revision petition is the order dated 19.10.2022 passed by Commissioner, Employees Compensation, Circle-IV, Gurugram declining deletion of the name of petitioner United India Insurance Company Ltd. from the array of respondents in claim application No.35 of 2021.

2. Briefly stated, facts of the case are that Smt.Neelam, widow, Harish – son and Anita – minor daughter of Vijender deceased had filed a claim application under Employee's Compensation Act, 1923 against respondents i.e. Transport Corporation of India Ltd., Gurugram, M/s Tractors and Farm Equipment Ltd., Chennai as well as United India Insurance Company Ltd., Chennai, claiming compensation on account of death of Vijender, who died in a road side accident on 27.8.2020 in the area of Police Post Patholi, Police Station Shahganj, District Agro (UP)

while transporting Messy tractor, which had met with an accident.

3. Notice of the application was given to respondents. Respondent No.3 insurance company had put in appearance and filed written statement contesting the application.

4. Thereafter, Respondent No.3 insurance company filed an application for deletion of its name from the array of respondents for the reason that insurance policy taken by respondent No.2 – insured is a Marine Cargo Open Policy and does not cover any liability under the Motor Vehicles Act; the insurance policy covers only transit risk for the items/machinery; further it has not been issued as per requirements under Section 147 of the Motor Vehicles Act; the policy did not cover the risk of workers on the vehicle and the third party liability is also not there.

5. That application was contested by the applicants.

6. After hearing arguments, the Commissioner under Employees Compensation, Circle-IV, Gurugram vide the impugned order dated 19.10.2022 had dismissed the application. For ready reference the operative part of the order is being reproduced as under:

After hearing the arguments of the parties and gone through the record on case file, it reveals that it is a matter of evidence that the respondent NO.3 is liable for indemnify the claim of the claimants on behalf of the respondent NO.1 or not, but the respondent No.3 applied linger tactic, while the earlier application on the same ground has already been dismissed. It is also mentioned in the Tax Invoice that the tractor in question was insured with the Respondent No.3 at the time of accident placed on

file, which was produced by the Respondent No.1 at the time of releasing the vehicle in question from the Police Station as well as Court and no other insurance policy or documents placed on case file by the respondent No.1 or the respondent No.3 that the vehicle in question was insured with any other policy. As per law of land no vehicle plied on road without any insurance. The respondent no.3 misuse the process of law by filing a repeated application on the same grounds. Hence the present application is hereby dismissed with costs a sum of Rs.200/- on the grounds mentioned above. Now case is fixed for 9.11.2022 for payment of cost in DLSA and Petitioner's evidence.

7. Such order left the respondent No.3 insurance company aggrieved and it has approached this Court by way of filing the present revision petition.

8. I have heard learned counsel for the petitioner besides going through the record and I find that there is absolutely no merit in the revision petition.

9. It has been pointed out in the impugned order that a similar application filed by the insurance company on same grounds had been dismissed and repeated applications taking similar grounds could not be moved.

10. The impugned order passed by the Commissioner under Employees Compensation, Circle-IV, Gurugram is quite detailed and well reasoned and it does not suffer from any illegality or infirmity and is not

having any element of arbitrariness or perversity. The revisional jurisdiction of this Court is quite limited and considering the facts and circumstances of the case, there is no reason to interfere with the impugned order by way of exercising the revisional jurisdiction.

11. Finding no merit in the revision petition, the same stands dismissed.

Since the main revision petition has been dismissed, the miscellaneous application(s), if any, stand disposed of accordingly.

12.5.2023
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No