

**CM-9445-CII-2023; CM-9449-CII-2023;
CM-9452-CII-2023 in/and FAO-2623-2023**

2023:PHHC:073172

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

(118)

**CM-9445-CII-2023;
CM-9449-CII-2023;
CM-9452-CII-2023 in/and
FAO-2623-2023
Date of Decision : May 19, 2023**

**Mahender @ Mahender Singh @ Sukh Mahinder Singh
.. Appellant**

Versus

Roji Khatoon and others .. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Vishal Nehra, Advocate, for the appellant.

HARSIMRAN SINGH SETHI J. (ORAL)

CM-9449-CII-2023

As prayed for, the application is allowed.

FAO-2623-2023

1. Present first appeal has been filed challenging the Award dated 31.03.2023 passed by the learned Commissioner under the Employee's Compensation Act, 1923 whereby the appellant has been directed to pay the compensation of Rs.8,90,480/- along with interest in favour of the respondent-claimants.

2. Learned counsel for the appellant argues that there was no employer-employee relationship between the appellant and the deceased as

the construction of the premises in question was already completed in the year 1997 and the deceased was working on road hence, the learned Commissioner wrongly held the appellant liable for the payment of compensation amount.

3. Learned counsel for the appellant further argues that the claim of the respondents was not maintainable as the same was raised after a sufficient long time.

4. I have heard learned counsel for the appellant and have gone through the record with his able assistance.

5. It may be noticed that it has come on record that the deceased was working within the premises when the construction of the house was undertaken and the premises where the construction was going on was concededly that of the appellant herein. Hence, the contention of the learned counsel that the construction of the house had already completed in the year 1997, therefore, working of the deceased at the house of the appellant in the year 2016 does not arise, cannot be accepted in view of the finding recorded by the Commissioner in the impugned order.

6. On being asked to point out as to what evidence has been brought on record in support of the said averment that victim was not present in the premises concerned which is owned by him, learned counsel for the appellant has not been able to point out any evidence except a bald statement in the written statement.

7. Further, it may be noticed that as per the finding of fact that the stone wearer work was going on in the premises when accident occurred, which work can be undertaken at any given point of time. Therefore, even

if it is assumed for the sake of argument that the construction of the house was completed in the year 1997, still repair and replacement of the stone work could have been undertaken in the year 2016 i.e. after a period of approximately 19 years of completion of construction in the premises in question, hence, argument being raised by the learned counsel for the appellant cannot be accepted.

8. Once, the house where the accident took place belonged to the appellant and the deceased was working at the relevant time in the said house, which finding of fact has not been dislodged, no perversity is found in the Award passed by the authority under the Employee's Compensation Act.

9. Further, nothing has been brought to the notice of this Court that the claim of the respondents was barred by limitation. In the absence of any limitation provided, claim once raised, has been adjudicated upon the merits and due findings have been recorded in support of the conclusion, hence, no interference is called for by this Court in the present appeal.

10. Dismissed.

CM-9445-CII-2023 and CM-9452-CII-2023

As the main appeal has been dismissed, present applications stand disposed of.

May 19, 2023
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

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