

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

+ **FAO 20/2023**

Date of Decision: 06.02.2023

IN THE MATTER OF:

**SHRIRAM GENERAL INSURANCE COMPANY
LIMITED**

..... Appellant

Through: Mr. Sameer Nandwani and
Ms. Nikita Sharma,
Advocates.

Versus

SMT VANDANA & ORS.

..... Respondents

Through: None.

**CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI**

JUDGMENT

MANOJ KUMAR OHRI, J. (ORAL)

CM APPL. 4190/2023

1. By way of present application filed under Sections 5 and 14 of the Limitation Act read with Section 151 CPC, the appellant seeks condonation of delay of 140 days in filing the appeal.
2. For the reasons stated in the application, the same is allowed and the delay of 140 days in filing the appeal is condoned.
3. Application is disposed of.

FAO 20/2023, CM APPL. 4189/2023, CM APPL. 4191/2023

1. The appellant has preferred the present appeal under Section 30 of the Employees' Compensation Act assailing order dated 08.07.2022 passed by the learned Commissioner in Case No.CEC-

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D/ED/06/2019/2648-2650, whereby it has been directed to deposit death compensation amount of Rs.8,31,920/- alongwith simple interest @ 12% p.a. w.e.f. 30.01.2019 till date of payment, as well as funeral charges of Rs.5,000/-.

2. During the course of submissions, learned counsel for the appellant has raised a solitary contention that the vehicle in question was used commercially and as such, not covered under the insurance policy. On the strength of the same, it has been contended that no compensation is payable by the appellant.

3. A perusal of the impugned order would show that in the claim petition filed by respondent Nos.1 to 6/claimants, it was stated that the deceased/*Devendra Singh @ Bablu* worked as a driver with respondent No.7/*Ajay Singh* on vehicle bearing no. UP-80-CQ-1320. On 21.12.2018, he met with an accident when the vehicle reached near Gram Nadota, P.S. Doki, Distt. Agra, U.P. at about 4:00 p.m. The accident resulted in severe injuries to the deceased and eventually, his death.

Statedly, the vehicle in question was insured with the appellant vide valid and subsisting Policy Certificate No. 10003/31/19/481843 for the period 03.12.2018 to 02.12.2019. The deceased was 30 years old at the time and drawing salary @ Rs.12,000/- per month. The case was registered at P.S. Doki Distt. Agra, U.P.

4. Vide the impugned order, the claim petition was decided in favour of the claimants. Aggrieved by the same, the appellant has preferred the present appeal.

5. It is noteworthy that in the proceedings before the learned Commissioner, respondent No.7 had filed his evidence by way of affidavit and admitted the employer-employee relationship between

himself and the deceased. He had categorically stated that the deceased was employed with him as a driver on vehicle bearing no. UP-80-CQ-1320, that the deceased had met with the accident while driving the said vehicle, and that the said vehicle was insured with the appellant. Copy of the driving license of the deceased was also placed on record by respondent No.7.

6. Although it has come in the averments of the appellant that on the fateful day, certain co-passengers were accompanying the deceased in the vehicle in question, it does not take away from the fact that the deceased met with the accident while being employed with respondent No.7 on a vehicle owned by the latter and passed away as a result thereof.

Significantly, the existence of employer-employee relationship between respondent No.7 and the deceased has not been denied and the factum of deceased last drawing salary of Rs.12,000/- per month has not been disputed. Further, in his cross-examination, respondent No.7 has stated that the deceased had gone to Agra for his work. A suggestion given to the contrary was specifically denied by respondent No.7. In fact, respondent No.7 also deposed that the deceased used to come and go to Agra to bring his goods.

7. In view of the aforesaid, this Court does not find any reason to interfere with the impugned order. Consequently, the appeal is dismissed alongwith the pending miscellaneous applications.

(MANOJ KUMAR OHRI)
JUDGE

FEBRUARY 06, 2023/ga

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