

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

+ **FAO 305/2016 & CM APPL.24564/2016**

Reserved on : 27.03.2023

Pronounced on : 12.05.2023

**IN THE MATTER OF:**

**THE NEW INDIA ASSURANCE CO LTD** ..... Appellant

Through: Mr. Pankaj Seth and Mr. Yuvraj  
Sharma, Advocates.

versus

**NASREEN BEGUM & ORS.** .... Respondents

Through: Mr. Daksh Nain, Advocate for  
respondent Nos. 1 to 7.

**CORAM:**

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

**JUDGMENT**

**MANOJ KUMAR OHRI, J.**

1. By way of present appeal filed under Section 30 of the Employees' Compensation Act, 1923 (for short, hereinafter referred to as the Act), the appellant has assailed the order dated 27.01.2016 passed by the learned Commissioner Employees' Compensation whereby claim application filed on behalf of respondent Nos. 1 to 7 was allowed.

2. Mr. Pankaj Seth, learned counsel for the appellant has contended that the claim application was filed after a delay of four years and in spite

of that appellant has been directed to pay interest from 30 days of the accident. Learned counsel has also assailed the impugned order by contending that at the time of incident the vehicle was not having valid permit.

3. Mr. Daksh Nain, learned counsel for respondent Nos. 1 to 7, on the other hand, has defended the impugned order. It is submitted that the present case involves death compensation and the legal heirs being residents of District Kanpur, Dehat, Uttar Pradesh have given sufficient explanation for not approaching the Tribunal in due time. In support of his contentions, learned counsel has placed reliance on decision of United India Insurance Co. Ltd. v. Prakash Devi reported as **2009 SCC OnLine Utt 1405**.

4. Briefly, the facts as culled out from the records, are that in the claim application, it was stated that Javed Ali (since deceased) aged about 35 years was employed as a driver for about six years on a vehicle (bearing registration No. UP-78-B-2981) owned by respondent No. 8. He was drawing a monthly salary of Rs.8,000/- + Rs.200/- per day as food allowance. It was claimed that on 02.12.2009, after loading goods from Surya Transport for delivery at Kanpur, he alongwith his vehicle at about 11:30 pm and when he reached near Shalimar Bagh, Delhi, all of a sudden another vehicle owner came and threatened him. In the said incident, he received grievous injuries and was rushed to Babu Jagjivan Ram Memorial Hospital by the PCR Van however during the treatment he expired on 03.12.2009. Accordingly, an FIR No. 355/2012 was registered at P.S. Shalimar Bagh, Delhi. It was claimed that the vehicle was owned by respondent No. 8 at the time of incident and the same was duly registered with the present appellant vide policy No.

42010131090200201532 which was valid and subsisting w.e.f. 05.10.2009 to 04.10.2010. It was further claimed that the appellant had also charged additional premium.

5. During the course of proceedings before the learned Commissioner, the claimants/respondent Nos. 1 to 7 had placed on record the FIR as well as DAR prepared by the local police. In the said proceedings, respondent No. 8 appeared and not only admitted the employer-employee relationship between himself and the deceased, but also that the incident had occurred during the course of employment. Insofar as contention with respect to application being filed after considerable time, it is noted that the claim application was accompanied by an application seeking condonation of delay wherein it was stated that after the death of employee the deceased's family contacted the owner of the vehicle who had assured them of a suitable compensation.

6. There is no gainsaying that labour statutes such as the EC Act constitute 'beneficial legislation' for the welfare of workmen and should be liberally constituted in their favour [Ref: Jaya Biswal and Others v. Branch Manager, IFFCO Tokio General Insurance Company Limited and Another reported as (2016) 11 SCC 201, Employees' State Insurance Corporation v. Bhakra Beas Management Board and Another reported as (2009) 10 SCC 671 and Employees State Insurance Corporation and Others v. Key Dee Cold Storage Pvt. Ltd. reported as 2022 SCC OnLine SC 650].

7. This Court takes note of the fact that in the application seeking condonation of delay, legal heirs of the deceased gave sufficient and satisfactory reasons which were duly considered by the learned

Commissioner and after considering the same, the delay was condoned. This Court finds no ground to interfere with the said finding.

8. Coming to the first contention, the law is well settled that compensation has to be paid from the date of the incident. [Ref: Ved Prakash Garg v. Premi Devi and Others reported as **(1997) 8 SCC 1**].

9. Insofar as the second contention relating to the validity of permit is concerned, suffice it to note that the scope of interference in an appeal under Section 30 of Act is limited to the substantial question of law and the findings of fact proved either way are not to be likely interfered with. The Supreme Court in North East Karnataka Road Transport Corporation v. Sujatha reported as **(2019) 11 SCC 514** has held as under :-

*“9. At the outset, we may take note of the fact, being a settled principle, that the question as to whether the employee met with an accident, whether the accident occurred during the course of employment, whether it arose out of an employment, how and in what manner the accident occurred, who was negligent in causing the accident, whether there existed any relationship of employee and employer, what was the age and monthly salary of the employee, how many are the dependents of the deceased employee, the extent of disability caused to the employee due to injuries suffered in an accident, whether there was any insurance coverage obtained by the employer to cover the incident etc. are some of the material issues which arise for the just decision of the Commissioner in a claim petition when an employee suffers any bodily injury or dies during the course of his employment and he/his LRs sue(s) his employer to claim compensation under the Act.*

*10. The aforementioned questions are essentially the questions of fact and therefore, they are required to be proved with the aid of evidence. Once they are proved either way, the findings recorded thereon are regarded as the findings of fact.*

*11. The appeal provided under Section 30 of the Act to the High Court against the order of the Commissioner lies only against the specific orders set out in clauses (a) to (e) of Section 30 of the Act with a further rider contained in the first proviso to the section that the appeal must involve substantial questions of law.*

*12. In other words, the appeal provided under Section 30 of the Act to the High Court against the order of the Commissioner is not like a regular first appeal akin to Section 96 of the Code of Civil Procedure, 1908 which can be heard both on facts and law. The appellate jurisdiction of the High Court to decide the appeal is confined only to examine the substantial questions of law arising in the case.”*

10. In the totality of the above noted facts and circumstances of this case, this Court finds no ground to interfere with the impugned order and consequently, the same is upheld.

11. Appeal is dismissed along with the pending applications.

**(MANOJ KUMAR OHRI)**  
**JUDGE**

**MAY 12, 2023**

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