



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No.1308 of 2000 (O&M)
Date of decision : 29.08.2024

United India Insurance Company Ltd.Appellant

Versus

Santosh and others ...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Ravinder Arora, Advocate and
Mr. Neeraj Khanna, Advocate
for the appellant.

None for the respondents.

PANKAJ JAIN, J. (ORAL)

Challenge is to the order dated 20th of December, 1999 passed by Commissioner, Rohtak under the Workmen’s Compensation Act, 1923 (hereinafter referred to as ‘the 1923 Act’).

2. The claimants filed claim petition seeking compensation on account of death of deceased Sube Singh who died while driving truck bearing No.HR-12/7395 insured with the appellant. Pleaded case of the claimants is that Sube Singh while driving the aforesaid vehicle got severe pain in his chest. He was taken to Primary Health Centre, Pinjore where he breathed last and died of heart attack at the age of 37 years.



3. I have heard counsel for the appellant and have gone through records of the case.

4. The employment as well as the factum of death of the deceased on account of heart attack while driving the vehicle is not in dispute. There is no evidence w.r.t. any prior heart ailment of the deceased. In these circumstances, the issue is :

‘Whether the death of the deceased can be said to be during the course of employment?’

5. The evidence is that the cardiac failure was result of affect of strain and stress of the employment as the deceased felt severe chest pain while driving the vehicle.

6. The issue w.r.t. vocation of a driver of a commercial vehicle and the resultant cardiac arrest while driving the vehicle already stands addressed by the Apex Court in the case of in the case of **Smt. Dariyao Kanwar and others vs. M/s United India Insurance Co. Ltd. and another, 2023 AIR (Supreme Court) 4161** wherein while dealing with the similar circumstances, Apex Court observed as under:

“8. The Commissioner accepted the application filed by the appellants. It was noticed in the order passed by the Commissioner that, the employer admitted that the deceased was employed as a driver and he was on duty from Delhi to Baroda on 15.09.2003. The wages being paid to him were also admitted. With these facts on records, the Commissioner accepted the application and assessed the compensation at Rs. 3,26,140/- (Rupees three lakh twenty-six thousand one hundred and forty). Aggrieved against the aforesaid order of the Commissioner, the Insurance Company

2024:PHHC:130065



preferred an appeal before the High Court. The arguments raised by the Insurance Company was that there is no material on record to suggest that the death of Sumer Singh occurred due to strain and stress during employment. In case, the deceased employee was already suffering from any existing disease and died on account of that, it cannot be said to be a case of death during the course of employment. The view of the High Court was that there is no relationship between the death and the work being done by the deceased. Hence, the order of the Commissioner was found to be unsustainable.

9. The judgment of this Court in Param Pal Singh's case (supra) relied upon by the counsel for the appellants, comes to their rescue. In that case, the deceased was a truck driver. While on duty, he suddenly suffered health set back and parked his vehicle on roadside hotel. After parking the vehicle, he fainted and was taken to the hospital. He was declared brought dead. An application was filed by the dependents of the deceased for claiming compensation under the 1923 Act. The Commissioner accepted the claim whereas the order passed by the Commissioner was set aside by the High Court. The dependents filed an appeal before this Court. It is noticed in the aforesaid judgment that additional premium was paid for coverage of compensation payable under the 1923 Act.

10. This Court accepted the appeal filed by the dependents of the deceased and found that even if the death had not occurred on account of any accident but the driver was consistently driving the vehicle, there is every reason to assume that long spells of driving was a material contributory factor, if not the sole cause that accelerated his unexpected death at a young age. Such an untoward mishap can reasonably be described as an accident, only attributable to the nature of employment. In the aforesaid judgment, the employee was 45 years of age. It squarely covers the case of the appellants. The relevant paras of the decision are extracted below:

"29. Applying the various principles laid down in the above decisions to the facts of this case, we can validly conclude

2024:PHHC:130065



that there was causal connection to the death of the deceased with that of his employment as a truck driver. We cannot lose sight of the fact that a 45- year-old driver meets with his unexpected death, may be due to heart failure while driving the vehicle from Delhi to a distant place called Nimiaghat near Jharkhand which is about 1152 km away from Delhi, would have definitely undergone grave strain and stress due to such long-distance driving. The deceased being a professional heavy vehicle driver when undertakes the job of such driving as his regular avocation it can be safely held that such constant driving of heavy vehicle, being dependent solely upon his physical and mental resources and endurance, there was every reason to assume that the vocation of driving was a material contributory factor if not the sole cause that accelerated his unexpected death to occur which in all fairness should be held to be an untoward mishap in his lifespan. Such an "untoward mishap" can therefore be reasonably described as an "accident" as having been caused solely attributable to the nature of employment indulged in with his employer which was in the course of such employer's trade or business.

30.In such circumstances, we are convinced that the conclusion of the Commissioner of Workmen's Compensation that the death of the deceased was in an accident arising out of and in the course of his employment with the second respondent was perfectly justified and the conclusion to the contrary reached by the learned Judge of the High Court in the order impugned in this appeal deserves to be set aside."

(emphasis supplied)

11. Similar view was expressed by this Court in Northeast Karnataka Road Transport Corpn's case. (supra)."



7. In view of the above, this Court does not find any reason to interfere in the findings recorded by the Commissioner. Resultantly, the instant appeal is dismissed.
8. Pending application(s), if any, shall also stand disposed off.

August 29, 2024			(Pankaj Jain)
Dpr			Judge
	Whether speaking/reasoned	:	Yes/No
	Whether reportable	:	Yes/No