



FAO-514-2021 (O & M)

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

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**FAO-514-2021 (O & M)
Date of decision : 17.12.2024**

United India Insurance Company Ltd.

..... Appellant

versus

Sureshi and others

..... Respondents

CORAM : HON'BLE MR.JUSTICE PANKAJ JAIN

Present :- Mr. Ram Avtar, Advocate for the appellant.

Ms. Aarti Sharma, Advocate for
Mr. Shalender Mohan, Advocate for respondent No.1.

Mr. Sunny Namdev, Advocate for respondent No.5.

PANKAJ JAIN, J. (ORAL)

1. The present appeal is directed against the order dated 20.04.2021 passed by the Commissioner under the Employee's Compensation Act, 1923 (for short - 1923 Act).

2. The claim petition was filed by the claimants seeking compensation on account of death of Kalu Ram, who is stated to be engaged on the truck No.HR-61-C-8811 by respondent No.1 on monthly basis of Rs.20,000/-. The vehicle was insured with the appellant. The factum with respect to the accident was recorded on the date of accident in DDR No.2 dated 28.08.2016. Postmortem was conducted which proved that the deceased died on account of accident. Owner-employer having failed to appear was proceeded ex parte vide order dated



04.07.2017. The Commissioner framed the following issues:-

- “1. Whether there exists relationship of employer and employee between the respondent No.1 and the deceased at the time of alleged accident?*
- 2. Whether the alleged accident occurred during and out of course of employment of respondent No.1?*
- 3. Whether the claimants are entitled to the amount of compensation as claimed? If so, to what amount and from whom?*
- 4. Whether the present claim application is not maintainable in view of the preliminary objections of the respondents?*
- 5. Relief.”*

3. It was held that the appellant-insurer is liable to pay a compensation of Rs.6,82,760/- to the claimants along with interest at the rate of 6 % per annum from the date of the accident.

4. Learned counsel for the appellant while assailing the impugned order passed by the Commissioner submits that the order had been passed without there being any evidence with respect to employer-employee relationship. He further submits that the appellant has been wrongly saddled with the liability in the absence of valid driving licence.

5. Per contra, learned counsel for the respondent No.1 submits that the relationship between the deceased and respondent No.1 was not denied by the respondent No.1. She further submits that the initial



version came on record in the form of DDR recorded by the police. She submits that at no point of time, the issue with respect to the driving licence was raised as is evident from the order passed by the Commissioner.

6. I have heard learned counsel for the parties and carefully perused the whole record.

7. In terms of Section 2 (dd) of the Employee's Compensation Act, 1923, the contract of employment for the purposes of 1923 Act can be written, oral or expressed or implied. The claimant appeared as PW-1 and deposed before the Commissioner that the deceased Kalu Ram was employed on the vehicle owned by respondent No.1. The said fact stood fully corroborated by the first version recorded with respect to the accident in DDR No.2 dated 28.08.2016 on the date of the accident. Thus the claimant discharged the initial version of proving the employer-employee relationship. The aforesaid evidence remains unrebutted. The best person to rebut the same is respondent No.1, who had contractual relationship with the appellant-insurer. No effort at any point of time was made by the appellant-insurer to examine the employer to dispute the relationship.

8. In view of the above, this Court does not find any reason to interfere with the findings recorded by the Commissioner with respect to the employer-employee relationship between deceased - Kalu Ram and employer - Yogesh Kumar.

9. So far as issue with respect to the driving licence is



concerned, learned counsel for the appellant could not point out from the contents of the order passed by the Commissioner that the said issue was ever raised before the Commissioner.

10. In view of the above, I do not find any reason to interfere in the present appeal. There is no question of law much less substantial question of law involved in the present appeal, which is sine qua non to maintain appeal in terms of Section 30 of 1923 Act.

11. Accordingly, the appeal is dismissed.

(PANKAJ JAIN)
JUDGE

17.12.2024
A.Kaundal

Whether speaking/reasoned	Yes/No
Whether Reportable :	Yes/No