



FAO No.1327 of 2000 (O&M) 1

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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FAO No.1327 of 2000 (O&M)
Date of Decision:21.01.2025

The New India Assurance Company Ltd.

....Appellant

Versus

Shanti Devi and another

....Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Paul S. Saini, Advocate,
for the Insurance Company.

PANKAN JAIN, J. (Oral)

1. Insurance Company is in appeal, aggrieved of order dated 18.10.1999, passed by the Assistant Labour Commissioner, Rajpura.
2. Claimant filed claim petition under the Provisions of Workmen's Compensation Act, 1923 seeking compensation on account of death of her son Shri Om, who died in an accident while driving Maruti Van bearing registration No.PB-10-C-9416.
3. Claimant claimed that the deceased Shri Om was employed as a driver with respondent concerned namely 'Shiv Om Di Hatti' on monthly salary of Rs.1500/- and was aged 20 years. During the course of employment, vehicle met with an accident and Shri Om died. It was claimed that the



deceased Shri Om was drawing salary of Rs.1300/- per month.

4. The claim was resisted by appellant. It was pleaded that the deceased in fact was a student. Mother cannot be said to be a dependent upon a student. It was further claimed that the claim petition was filed by the claimant in collusion with respondent No.2-Om Parkash, who was none else but the father of the deceased.

5. On the basis of pleadings, Assistant Labour Commissioner framed the following issues:-

- “1. Whether there existed any master-servant relationship between the deceased and respondent No.1, at the time of accident? OPA
2. Whether the accident occurred during the course of employment with the respondent? OPA
3. Whether the claimant was dependent upon the earnings of the deceased at the time of his death? OPA
4. Whether the claimant is entitled to compensation, penalty and interest from the respondents.
5. Whether the claim petition has been filed out of collusion of the parties.
6. Relief.

6. Returning findings on all the issues in favour of the claimant, Assistant Labour Commissioner awarded compensation of Rs.1,45,600/- to the claimant alongwith the interest @ 12% per annum, for the period commencing from 30 days after the date of accident till the date of actual realization.



7. Mr. Saini, learned counsel for the Insurance Company while assailing the impugned order passed by the Assistant Labour Commissioner emphatically argues that the claim petition is an act of collusion between the husband and wife. The same is evident from the fact that respondent No.2, who was impleaded as respondent No.1 in the claim petition, filed written statement admitting the claim of the claimant. He further submits that keeping in view the nature of relationship *inter se* between the deceased, claimant and the employer, it is evident that there was, in fact, no employer or employee relationship. A son cannot be held to be an employee in concern owned by the father.

8. I have heard learned counsel for the Insurance Company and carefully gone through the material available on record.

9. From the record, it is evident that the vehicle involved in the accident in question was Maruti Van owned by 'Shiv Om Di Hatti'. Insurance policy was also issued in favour of 'Shiv Om Di Hatti'. Policy specifically covered legal liability qua driver. Premium amount of Rs.15/- was charged by the appellant insurance company. The owner and the insured was the commercial concern.

10. The claimant discharged initial onus by testifying that the deceased was employed with the respondent concerned. Insurance Company, after having been impleaded in the claim petition, never made any effort to rebut the aforesaid evidence.

11. In view therefore, this Court finds that the inference that Mr.

Saini wants this Court to draw would be a mere conjecturer. It cannot partake and substitute cogent piece of evidence. Pure finding of fact has been recorded by Commissioner. There being no substantial question of law involved in the present appeal, the impugned order calls no interference. Insurance Company, having failed to rebut the evidence brought on record by the claimant, is not entitled for any relief in the present appeal, hence the same is dismissed.

12 After claimant discharged initial onus testifying that deceased was employed with insured, burden was on insured to rebut the evidence of claimant.

13. Pending applications, if any, also stand disposed off.

(PANKAN JAIN)
JUDGE

January 21, 2025
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Whether speaking	:	Yes/No
Whether reportable	:	Yes/No