



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

FAO-3338-2022 (O&M)

Decided on : 25.09.2025

IFFCO-TOKIO

..... Appellant

Versus

Devender Kumar alias Davender and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Sanjeev Kodan, Advocate
for the appellant.

Mr. Shivansh Malik, Advocate
for the respondents.

PANKAJ JAIN, J (ORAL)

1. Insurance Company has preferred the instant appeal challenging the order dated 02.03.2022, passed by the Commissioner under The Employee's Compensation Act, 1923, Rohtak whereby the claim application filed by the respondent-claimant stands allowed.

2. Claim application was filed by the claimant claiming that he was working as a driver on vehicle bearing No.HR-77-7440 of respondent No.1 on a monthly salary of Rs.8,000/-. The vehicle met with an accident. The claimant sustained serious injuries and was rendered permanently disabled to the extent of 6%. He accordingly sought compensation for having suffered injuries and consequential disability in an accident arising out of and during the course of employment.



3. Respondent No.1-employer, who happens to be the father of the claimant, filed written statement admitting the employment and the accident. Claim petition was contested by the Insurance Company i.e. respondent No.2-appellant.

4. The Commissioner framed the following issues:-

- 1. Whether there exists employee employer relationship between the injured and respondent No.1&2?*
- 2. Whether the accident occurred out of and during the course of employment?*
- 3. Whether the applicant is entitled to the amount of compensation? If so, to what amount and from whom?*
- 4. Relief.*

5. While deciding issues No.1 and 2, the Commissioner found that there was a relationship of employee-employer between the claimant and respondent No.1. The claimant being an employee and having suffered injuries in an accident arising out of and during course of employment was entitled to compensation of Rs.62,470/- apart from medical expenses of Rs.7,20,487/- and interest @ 12% per annum from the date of accident till the date of award.

6. Counsel for the appellant assails the findings recorded by the Commissioner. The issue raised is regarding findings recorded by the Commissioner qua the existence of employee and employer relationship between the claimant and respondent No.1. Learned counsel claims that the blood relation between the claimant and respondent No.1 is not disputed. The Commissioner ought not to have returned the findings in favour of the appellant in the absence of any documentary evidence to prove payment of salary by respondent No.1 to the claimant. He further refers to the statement made by the



claimant where he admitted that he was unemployed and was driving his own car. Relying upon the testimony, learned counsel states that once the admission on the part of the claimant has come on record, the Commissioner erred in allowing the claim application.

7. Per contra, Mr. Malik, learned counsel for the respondents submits that a pure finding of fact has been recorded by the Commissioner regarding employee-employer relationship between the claimant and respondent No.1. There being no substantial question of law which is sine qua non, to maintain appeal under Section 30 of 1923 Act, the present appeal deserves dismissal. Reliance is being placed upon the judgment of Hon'ble Supreme Court in the case of *North East Karnataka Road Transport Corporation versus Smt. Sujatha 2018 AIR (Supreme Court) 5593* wherein the Supreme Court observed that the issue with respect to relationship of employee-employer is a pure question of fact.

8. I have heard learned counsel for the parties and have carefully gone through the record of the case.

9. There is no dispute with respect to the proposition canvassed by Supreme Court in *Smt. Sujatha's case* (supra) observing that the question with respect to existence of a relationship of employer employee is a factual issue. However, trite it is that misreading of evidence which breeds perversity in the findings amounts to substantial question of law.

10. In the present case, claimant while entering the witness box testified as under:-

"I am BA Pass. I passed my BA in 2013 from Jat College, Rohtak. The car No.HR77-7440 is Registered in my father Name Sh.



Ramesh. My father is a contractor. I am unemployed. Car No.HR77-7440 is regd. for private use. I am married. I was driving my own car and chimta of the car was damaged and the FIR regd. against me. It is wrong to suggest I was not the employee of my father car and in collusion with the father the petitioner is filled to extract false compensation by showing me as an employee. It is wrong to suggest that there was relation of employee an employer. I have not documentary proof of employment and salary. It is wrong to suggest I was not suffered any injury in the alleged accident. In the FIR I was shown as negligent. It is wrong to say that I have not incurred any amount on Treatment etc. I have not suffered any permanent disability. I am married. It is wrong to say that I was getting a salary of Rs.8000/- per month as salary from my father. That contains of my affidavit are false. I am deposing false just to get the false compensation.”

11. In view of the clear admission made by the claimant that he was driving his own car and was unemployed, this Court finds that the Commissioner erred in recording a perverse finding on issue No.1 in favour of the claimant in the absence of there being any cogent piece of evidence to prove the contract of employment or payment of salary by respondent No.1 to the claimant. Having held that there existed no employee employer relationship between the claimant and respondent No.1, this Court finds that the award passed by the Commissioner cannot be sustained and is hereby set aside.

As a sequel of the discussion hereinabove, the instant appeal is ordered to be allowed.

25.09.2025

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**(PANKAJ JAIN)
JUDGE**

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No