



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

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**FAO-4264-2025 (O&M)
Date of decision : 15.07.2025**

United India Insurance Company Ltd. Appellant

versus

Kamlesh and others Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

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

PANKAJ JAIN, J. (Oral)

1. Insurance company is in appeal against the order passed by Commissioner under Employees Compensation Act Circle II, Yamuna Nagar dated 27.03.2025.

2. Claimants approached Commissioner seeking compensation on account of death of their son Vishal Saini who was employed with respondent No.3 as Supervisor in a project known as Suningad-II at Pithoragarh. As per the claimants, on 10.04.2016, Vishal Saini went for the work of company in a Nadi. He suffered injuries and died at the age of 26 years. Claimants claimed that the accident was during and in the course of employment and thus, they are entitled to receive compensation on account of death of their son Vishal Saini.

3. The claim petition was contested by the company-employer. As per the employer, the employees working at Suningad-II, Pithoragarh site were insured. Employment of Vishal Saini as



Supervisor was admitted. However, as per the employer, the accident took place on Sunday which was an off day at site. Employer denied that the accident occurred on the site or that the same was result of an accident occurred during and in the course of employment.

4. Insurance company filed written statement claiming that as per their investigation, Vishal Saini died after falling from mountain hill. He was under the influence of liquor and thus, the claim is not covered under the insurance policy.

5. On the basis of the pleadings, following issues were framed:-

- “i. Whether Vishal Saini, since deceased was the employee of the respondents at the time of accident, as alleged? OPA*
- ii. Whether the applicants are entitled to amount claimed, if so with what details?*
- iii. Whether the claim petition is not maintainable under the provision of the Employees Compensation Act, as alleged in the preliminary objections? OPR*
- iv. Relief.”*

6. Commissioner answered issue No.1 and 2 in favour of the claimants. While returning finding on issue No.3, Commissioner found that there was no evidence on record to corroborate the version of insurance company that the deceased was under influence of liquor. There is nothing in the post mortem report that the traces of liquor were found from the stomach of the deceased. Employer in the cross-examination admitted that the deceased was working as Supervisor whose work continued for 24 hours. Even in the police report Ex.R-14, registered on the statement made by Gram Sevika, dead body of the deceased was recovered from the forest near the project site. Answering issue No.3 in favour of the claimants, Commissioner held



that the deceased died during the course of employment.

7. Mr. Yadav, counsel for the appellant has assailed the findings recorded by the Commissioner. He submits that in view of specific stand taken by the employer on 10.04.2016, the fateful day being Sunday was a non-working day in the company, Commissioner erred in holding that the deceased died in an accident arising out of and during the course of employment. He submits that it has come in the investigation conducted by the insurance company that deceased Vishal Saini was under influence of liquor when he met with an accident, still Commissioner allowed the claim application filed by the claimants.

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

9. Since employment of the deceased is not in dispute, there is no dispute with respect to the findings recorded by the Commissioner on issue No.1. The primary dispute raised by the counsel for the appellant is qua issue No.3. The employer in written statement on merits claimed that 10.04.2016 was a Sunday and was a non-working day in the company. The insurance company claimed that as per their investigation, the deceased was under influence of liquor. The defence taken by the insurance company gets falsified from the post mortem report. There is no finding given by the medical board regarding any trace of liquor found in the body of Vishal Saini in post mortem. Thus, an investigation report brought on record by the insurance company which stands falsified by the post mortem report, cannot be believed and no fault can be found with the approach



of the Commissioner in discarding the same.

10. Coming on to the defence taken by the employer regarding 10.04.2016 being a Sunday and non working day, the same stands falsified by the cross-examination of Sushil Kumar HR Manager of the company, who admitted that Vishal Saini was appointed as Supervisor with respondent No.1 on the site and he was 24 hours on duty and was required to visit site at any time. Thus, it cannot be held that the deceased was not within the sphere of employment at the time he lost his life.

11. Pure finding of fact has been recorded by the Commissioner that the deceased lost his life in an accident arising out of and during the course of employment. Counsel for the appellant could not point out any piece of evidence that was not considered or has been misread.

12. Finding no perversity in the findings recorded by the Commissioner, this Court finds that the present appeal is bereft of any substantial question of law which is *sine qua non* to entertain appeal under Section 30 of the Employee's Compensation Act, 1923.

13. Finding no merits in the present appeal, the same is ordered to be dismissed.

14. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(PANKAJ JAIN)
JUDGE

15.07.2025

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Whether speaking/reasoned :	Yes
Whether Reportable :	No