



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

127

**FAO-4528-2024 (O&M)
Date of decision : 22.12.2025**

Dev Dutt Soni

..... Appellant

versus

Smt. Sita Devi (since deceased) th. her LRs and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Amit Kaith, Advocate
for the appellant.

Mr. Sanjiv Ghai, Advocate with
Mr. Harpreet Singh, Advocate for UT, Chandigarh.

Mr. Shailesh Aggarwal, Advocate,
Mr. Yash Garg, Advocate and
Mr. Roshan Chiripal, Advocate
for respondent No.1.

Mr. Ashish Chaudhary, Senior Panel Counsel
for the respondent-UOI.

Mr. R.C. Gupta, Advocate
for the respondent-Ins. Co.

Mr. Naveen Singh Panwar, DAG, Haryana.

Mr. Harinder Pal Singh Ishar, Addl. AG, Punjab.

PANKAJ JAIN, J. (Oral)

1. This is an appeal at the behest of an employer against order passed by the Commissioner exercising powers under the Employee's Compensation Act, 1923 (*hereinafter referred to as 'the Act, 1923'*).



2. Appellant has been directed to pay a compensation of Rs.8,78,530/- to the respondents/claimants on account of death of Sham Lal. Sham Lal was working as labour (as Mason) on daily-wages of Rs.700/-, for repairing wall of the house of the appellant. As per the claim petition, the deceased Mason advised the appellant that the wall was not worth repair. He still insisted upon him to repair the dilapidated wall. During the course of repair, the wall suddenly fell and the deceased Mason as well as the helper were clinched under the wall.

3. On 23.09.2024, following order was passed by this Court taking holistic view:-

“This is an appeal at the behest of an employer against order passed by the Commissioner exercising powers under the Employee’s Compensation Act, 1923 (*hereinafter referred to as ‘the Act, 1923’*).

2. Appellant has been directed to pay a compensation of Rs.8,78,530/- to the respondents/claimants on account of death of Sham Lal. Sham Lal was working as labour (as Mason) on daily-wages of Rs.700/-, for repairing wall of the house of the appellant. As per the claim petition, the deceased Mason advised the appellant that the wall was not worth repair. He still insisted upon him to repair the dilapidated wall. During the course of repair, the wall suddenly fell and the deceased Mason as well as the helper were clinched under the wall.

3. By now, it is a well settled proposition of law that the owner of a site under construction/repair falls within the ambit of employer, as defined under the Act, 1923 and is liable to compensate the deceased/injured employee, in case the same is on account of accident that has occurred during the course of employment.

4. Leave aside the merits of the present case, this Court finds that the proposition needs to be analyzed from both the ends. On one hand are the claimants, who lost their only earning family member in an accident during the course of employment, and on the other hand, there is a person who is



respect of which the Central Government will be the appropriate Government;

(iii) constitution of Central and State Advisory Committee to advise the appropriate Government on matters arising out of administration of the said Ordinance;

(iv) constitution of Expert Committee to advise on matters relating to framing of rules by the appropriate Government;

(v) registration of establishments employing construction workers, and appointment of registering officers;

(vi) registration of building workers as beneficiaries under the said Ordinance and provision for their identity cards, etc.;

(vii) constitution of Welfare Boards by the State Governments and registration of beneficiaries under the Fund;

(viii) provide for financing and augmenting resources of the Welfare Board constituted by the State Governments;

(ix) fixing hours for normal working day, weekly paid rest day, wages for over time, provision of basic welfare amenities like drinking water, latrines and urinals, creches, first aid, canteens, etc., for the building workers;

(x) provision for temporary living accommodation to all building workers within or near the work site;

(xi) making adequate provisions for safety and health measures for construction workers including appointment of safety committees and safety officers and compulsory notification of accidents;

(xii) empowering the Central Government to frame model rules for safety measures headed by Director-General of Inspection at the Central Level and Inspector-General at the State Level;

(xiii) provision for appointment of inspecting staff including Director-General of Inspection at the Central level and Inspector-General at the State level;

(xiv) special provisions regarding fixing responsibility of employers to ensure compliance with



safety provisions and with regard to prevention of accidents, timely payment of wages, etc.;

(xv) provision for penalties for contravention, obstructions, violation, and offence; taking cognizance by Court of offence punishable under this Bill; and protection of action taken in good faith;

(xvi) **application of the Workmen’s Compensation Act, 1923 to building and other construction workers; and**

(xvii) **empowering the Central Government to give directions to the States and to remove difficulties arising in giving effect to the provisions of the said Ordinance.**

xxxx xxxx xxxx xxxx”

6. Section 1 of the Act, 1996 deals with the application of the Act. The same reads as under:-

“1. Short title, extent, commencement and application.—(1) This Act may be called the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996.

(2) It extends to the whole of India.

(3) It shall be deemed to have come into force on the 1st day of March, 1996.

(4) It applies to every establishment which employs, or had employed on any day of the preceding twelve months, ten or more building workers in any building or other construction work.

Explanation.—For the purposes of this sub-section, the building workers employed in different relays in a day either by the employer or the contractor shall be taken into account in computing the number of building workers employed in the establishment.”

7. Relevant definitions in Section 2 of the Act, 1996 reads as under:-

“2. Definitions.—(1) In this Act, unless the context otherwise requires,—

xxxx xxxx xxxx xxxx

(e) “building worker” means a person who is employed to do any skilled, semi-skilled or unskilled, manual, supervisory, technical or clerical work for



hire or reward, whether the terms of employment be expressed or implied, in connection with any building or other construction work but does not include any such person—

- (i) who is employed mainly in a managerial or administrative capacity; or
- (ii) who, being employed in a supervisory capacity, draws wages exceeding one thousand six hundred rupees per mensem or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature;

xxxx xxxx xxxx xxxx

(g) “contractor” means a person who undertakes to produce a given result for any establishment, other than a mere supply of goods or articles of manufacture, by the employment of building workers or who supplies building workers for any work of the establishment, and includes a sub-contractor;

xxxx xxxx xxxx xxxx

(i) “employer”, in relation to an establishment, means the owner thereof, and includes-

- (i) in relation to the a building or other construction work carried on by or under the authority of any department of the Government, directly without any contractor, the authority specified in this behalf, or where no authority is specified, the head of the department;
- (ii) in relation to a building or other construction work carried on by or on behalf of a local authority or other establishment, directly without any contractor, the chief executive officer of that authority or establishment;
- (iii) in relation to a building or other construction work carried on by or through a contractor, or by the employment of building workers supplied by a contractor, the contractor;

xxxx xxxx xxxx xxxx”

8. Section 40 of the Act, 1996 further empowers the appropriate Government i.e. the State Governments/Central



Government to make rules for the safety and health of building workers.

9. Section 58 of the Act, 1996 further provides that provisions of the Workmen's Compensation Act, 1923, shall so far as may be, apply to building workers. The same reads as under:-

“58. Application of Act 8 of 1923 to building workers.

—The provisions of the Workmen's Compensation Act, 1923, shall so far as may be, apply to building workers as if the employment to which this Act applies had been included in the Second Schedule to that Act.”

10. The legislation is already in place and it prescribes that the provisions of Act of 1923 are applicable to the construction workers. Still this Court finds in the matters relating to the ‘construction workers’ that there is no condition/rule providing for compulsory insurance for such workers.

11. The Court has been further informed that policies for construction workers are available at a nominal premium of Rs.100/- per worker.

12. Notice of motion.

13. Notice is also issued to the Union of India, State of Punjab, State of Haryana and Union Territory, Chandigarh and the nationalized insurance companies to assist this Court as to how the insurance of the building workers can be made compulsory at the time an employer i.e. owner of the site/contractor starts work of repair/construction.

14. Adjourned to 21.10.2024.

15. Meanwhile, let the Union of India, State of Punjab, State of Haryana and Union Territory, Chandigarh be served through the Additional Solicitor General of India, Advocate General, Punjab, Advocate General, Haryana and Senior Standing Counsel for U.T., respectively and Mr. R.C.Gupta, Standing counsel for National Insurance Companies.

16. The Registry is directed to supply the complete paper book and record to the Counsels.

17. In the meantime, disbursal beyond an amount of Rs.4 lakhs shall remain stayed.”



State of Punjab, State of Haryana and U.T. Chandigarh. The same are taken on record.

5. Affidavit of Shri Diprava Lakra, IAS, Secretary Labour, Chandigarh Administration, U.T., Chandigarh reads as under:-

“xx xx xx

2. That it would be pertinent to submit here that the office of the deponent vide Memo No.1617 dated 29.01.2025 has requested the Secretary Estate, Chandigarh Administration that an amendment is required to be made in the Chandigarh Building Rules (Urban), 2017, for ensuring mandatory insurance coverage for building and construction workers as per order of the Hon'ble Court. Further it has been recommended vide the said memo that:

“(i) The requirement for obtaining an insurance policy for building and construction workers be incorporated as a mandatory condition at the time of submission and sanction of building plans under the Chandigarh Building Rules (Urban) 2017.

(ii) Compliance of this requirement can be monitored by the respective sanctioning authorities, including the Estate Office and the Building Branch, Estate Office.”

It has been mentioned in the said memo that this initiative will significantly enhance the protection of construction workers and ensure adherence to labour welfare provisions. Copy of the said memo no. 1617 dated 29.01 2025 is annexed herewith as Annexure R-1.

3. That vide memo no. 1616 dated 29.01.2025 the office of the deponent has requested the Secretary Local Govt., Chandigarh Administration that an amendment is required to be made in the "Chandigarh Rural Inhabitations (Area within Red Line of Revenue Estates, Abadi Areas) Construction and Reconstruction Building Bye-Laws for Villages (both within and outside Municipal Limits) falling in Union Territory of Chandigarh, Rules, 2017", for ensuring mandatory insurance coverage for building and construction workers as per orders of the Hon'ble Court. The compliance of this can be monitored by the sanctioning authority ie the Building Branch of the Municipal Corporation, Chandigarh. It has further been



mentioned in the said memo that this initiative will significantly enhance the protection of construction workers and ensure adherence to labour welfare provisions. Copy of the said memo no. 1616 dated 29.01.2025 is annexed herewith as Annexure R-2.”

6. Affidavit of Manvesh Singh Sidhu, IAS, Secretary to Government of Punjab, Department of Labour, Mohali reads as under:-

“xx xx xx

3. That it is pertinent to mention here that for the welfare of construction workers, Secretary Labour, has requested the following Head of Departments to make insurance mandatory for construction workers by the owners (the person on whose behest construction is being initiated) while they seek approval of construction plan. This benevolent provision of mandatory insurance will significantly enhance the protection of underprivileged construction workers; and, therefore, it has been requested to add a provision of mandatory insurance for construction workers before approval of building plans, in the respective Rules while approving any building/construction plan:-

- i) The Managing Director Punjab Small Scale Industries and Export Corporation, Chandigarh.
- ii) The Additional Chief Secretary to Government of Punjab, Department of Local Government.
- iii) The Principal Secretary to Government of Punjab, Department of Housing and Urban Development.

A copy of letters issued is enclosed here with at Annexure R-1, R-2 and R-3 for kind perusal of this Hon'ble Court.

4. That in response to the above letter, the additional Managing Director, Punjab Small Scale Industries and Export Corporation, Chandigarh vide letter No. 989 dated 17.04.2025 has informed the department that the building plans of plots are approved by PSIEC only after the deposit of the labour cess by allottee(s) of plot with the Labour Department and the allottee confirms the deposit of the labour cess by providing a copy of receipt to the PSIEC. The department has also informed that PSIEC has already incorporated the condition for insurance for construction workers which is mentioned as under:-



"You shall ensure that, labour/worker, who will work at construction site for construction of the building are covered under insurance, to meet with the compensation to be payable in case of any accident/mis-happening."

The copy of the letter received is attached as annexure R-4.

5. That in response to the above letter mentioned in para no 3, the Director, Department of Local Government vide letter no. 1030 dated 17.04.2025 (attached as annexure R-5) has informed the Labour Department, that all the Commissioners of Municipal Councils and Additional deputy Commissioners have been informed that the sanction letter of building plans to be issued through e-Naksha portal, the condition has to be incorporated in the sanction letter that the applicant will have to ensure the insurance of the Building & Other Constructions Workers working T. OF INDIA for the construction.

6. That in response to the above letter mentioned in para no 3, the Divisional Engineer Chief Administrator, PUDA SAS Nagar vide letter no. PUDA/DE(HQ-2)/2025/I/112321/2025 dated 23.04.2025 (Annexure R-6) has informed this department that of PUDA is entrusted with the work of supervision of development works carried out by different agencies to whom the work is allotted through tendering process and the said condition of mandatory insurance for building and construction workers has already been incorporated in the clause 15 as per detail given below:

Clause 15, sub clause 15.1 of the Standard Bidding Document which states that -

the contractor shall provide, in the joint names of employer and the contractor, insurance cover from the start date to the end date of the defects liability period, in the amounts and deductibles stated in the contract data for the following events which are due to the contractors risk:

- (a) loss or damage to the works, plant and materials.*
- (b) loss or damage to equipment*
- (c) loss or damage of property (except the works, plant, material and equipment) in connection with the contract and*
- (d) personal injury or death".*

Further, it also submitted that with the approval of competent authority letter has already been issued vide letter no.



PUDA/DE (HQ-2)/I/109077/2025 dated 18.03.2025 to all the Chief Administrator, GMADA/GLADA/PDA/BDA /ADA/ JDA, Chief Engineer, PUDA/GMADA/GLADA and Chief Town Planner, Punjab/PUDA-
“to incorporate the condition of collective insurance of all the workers at the sites under which such building plan is being approved and, to enforce the condition on the ground when supervising construction on these sites.”

7. Affidavit of Mani Ram Sharma, Secretary to Government, Haryana, Labour Department reads as under:-

“xx xx xx

4. That in pursuance of the interim direction dated 15.07.2025 passed by this Hon'ble Court in FAO No. 4528 of 2024, and in view of the decision of the State Government, the Haryana Building and Other Construction Workers' Welfare Board (hereinafter referred as Board) has formulated a draft policy titled as “Haryana Building and Other Construction Workers' Welfare Board Shortfall Compensation Policy for Small-Scale Construction Works in the State of Haryana” which has been approved by the Chairman of the Board and the same will be implemented in due time. The copy of the draft policy is annexed as Annexure R-1.
5. That the said policy provides for the grant of financial assistance towards shortfall compensation to the nominee/legal heirs of deceased workers or to injured workers engaged in small-scale construction works (project cost below ₹10 lakh), irrespective of their registration status, in cases where the employer fails to pay the full amount of compensation awarded under the Workmen's Compensation Act, 1923.
6. That as per the policy, the Board undertakes to bridge the gap between the compensation amount awarded by the learned Commissioner/this Hon'ble Court and the amount already paid, after adjusting payments made under HBOCWBB schemes or by the employer.
7. That the eligibility conditions, verification process, and the standard operating procedure for implementing the policy have been duly framed and annexed with the said policy, which provides for verification of project cost, assessment of



payment status, calculation of shortfall, recommendation by the Deputy Director (Industrial Safety & Health), approval by the Hon'ble Chairman of the Board, and direct disbursal to the beneficiaries through Director Benefit Transfer.”

8. The proposed policy reads as under:-

“Subject: Policy for Financial Assistance towards Compensation for Deceased or Injured Building & Other Construction (BOC) Workers Engaged in Small-Scale Construction Works (Project Cost below ₹10 lakh) by HBOCWWB.

In pursuance of the interim directions of the Hon'ble Punjab & Haryana High Court in FAO No. 4528/2024 dated 15.07.2025, and the decision of the State Government to bear the amount of compensation payable to any BoC worker-irrespective of registration status-in case of accidental death or injury during the course of employment at a construction site, the Haryana Building & Other Construction Workers Welfare Board formulates the following policy.

1. Title & Commencement: This policy shall be called the *"HBOCWWB Shortfall Compensation Policy for Small-Scale Construction Works in the state of Haryana"* and shall come into force with w.e.f, the date of approval of the state Government.

2. Applicability: This policy shall apply to:

- Cases involving accidental death or injury of a BoC worker at a construction site in the state of Haryana.
- Projects having a total cost of construction/repair below ₹10 lakh.

3. Objective: To provide financial assistance to bridge the shortfall between the compensation awarded by the Commissioner or Hon'ble Court and the amount already disbursed under HBOCWWB welfare (compensation) schemes, ensuring that bereaved families or injured workers receive full legally entitled compensation.

4. Nature of Assistance: The Board shall, on a case-by-case basis, provide *shortfall compensation* to the nominee/legal heirs of deceased workers or to injured workers after adjusting the amount already received from:

- a) Existing HBOCWWB schemes, and



b) Any partial payment made by the employer.

5. Eligibility & Conditions: Financial assistance under this policy shall be provided only if:

- a) The case has been adjudicated by the Compensation Commissioner under the Workmen's Compensation Act, 1923.
- b) The project cost is verified to be below ₹10 lakh by the concerned authority.
- c) The employer has failed to pay the full awarded amount within the stipulated period.
- d) A formal recommendation is made by the concerned Deputy Director, Industrial Safety & Health (IS&H).
- e) Approval is granted by the Chairman, HBOCWWB in special consideration of each case. All such approved cases shall be placed for Ex-post facto approval of the Board.

7. Issuance of Guidelines: The detailed Standard Operating Procedure (SoP) /guidelines for processing and disbursal of shortfall compensation under this policy shall be issued separately by the Board.

Annexure Draft Standard Operating Procedure (SOP) / Guidelines for Implementation of Shortfall Compensation Policy

1. Purpose

To define the step-by-step process for processing claims and disbursing shortfall compensation in cases of accidental death/injury to BoC workers under small-scale construction projects (below ₹10 lakh).

2. Step-by-Step Procedure

Step 1: Case Identification

- The concerned Deputy Director-IS&H office shall monitor Compensation Commissioner awards under the Workmen's Compensation Act, 1923 for BoC workers. In this regard, the O/o Labour Commissioner may provide the details of such awards to the O/o DD-IS&H on weekly/fortnightly/monthly basis.
- Any case falling within policy parameters shall be flagged for possible shortfall assistance.

Step 2: Verification of Project Cost

- Verification by the Assistant Director -IS&H cum Assessor of concerned jurisdiction confirming the cost



of construction/repair is below ₹10 lakh.

Step 3: Assessment of Payment Status

- DD-IS&H office shall confirm the amount paid (if any) by the employer through the Commissioner under Workmen Compensation Act, 1923 under administrative control of Labour Department.
- Confirmation of payment made under HBOCWWB schemes (if any).

Step 4: Calculation of Shortfall:

Shortfall = Total compensation awarded by Commissioner (Amount paid by employer + Amount paid under HBOCWWB schemes).

Step 5: Employer's Declaration

- Obtain a written statement from the employer/owner/contractor citing inability to pay due to financial hardship, if available.

Step 6: Recommendation by DD-IS&H

Deputy Director (IS&H) shall prepare a detailed report with calculations, supporting documents, and recommendation.

Step 7: Approval by the Board

- Case to be placed before the Board for consideration and sanction.

Step 8: Disbursal of Assistance

- Payment to be made directly into the Aadhaar linked bank account of legal heirs/injured worker via DBT.

3. Timelines

- Verification and recommendation by DD-IS&H: 45 days from receipt of case.
- Approval of the Hon'ble Chairman and payment: 30 days from recommendation.

4. Monitoring

- Quarterly report to be placed before the Board on total cases supported, amounts disbursed, and recovery status.”

9. At this stage, State of Haryana is directed to file progress report indicating whether the proposed policy, as mentioned in the affidavit has been finalized or not before **31.07.2026**.



- 10. Disposed off, accordingly.
- 11. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(PANKAJ JAIN)
JUDGE

22.12.2025
Dinesh

Whether speaking/reasoned : Yes
Whether Reportable : No