



304

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

FAO No.6359 of 2023 (O&M)

Date of decision : 16.07.2025

S.D.O. DHBVN PUNHANA AND OTHERS

....Appellants

Versus

NASRU AND OTHERS

....Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Navdeep Doon, Advocate
for the appellants.

Mr. Ashish Gupta, Advocate
for the respondents/claimants.

PANKAJ JAIN, J. (ORAL)

CM-21891-CII-2023

This is an application filed under Section 5 of Limitation Act seeking condonation of delay of 572 days in filing the instant appeal.

For the reasons recorded in the application, this Court is satisfied that the applicants/appellants have made out a sufficient cause for condonation of delay.

Consequently, the present application is allowed. The delay of 572 days in filing the instant appeal is hereby condoned.

FAO No.6359 of 2023 (O&M)

Challenge in the instant appeal is to the order dated 28.02.2020 passed by Commissioner, Nuh, under the Employee's Compensation Act, 1923 (hereinafter referred to as 'the 1923 Act').



2. Claimants sought compensation on account of death of one Farukh, who died at the age of 27 years while working as Assistant Lineman with respondents. It has come on record that the deceased Farukh died while repairing fault on the electricity pole.

3. The claim was resisted by the respondents claiming that the deceased was not working with DHBVN but was rather working with contractor M/s Shree Jee Manpower Contractors Pvt. Ltd., Faridabad and it is the Contractor who is solely responsible to pay compensation to the claimants.

4. The aforesaid plea raised by respondents has been repelled by the Commissioner.

5. Mr. Doon, counsel for the appellants before this Court submits that even if the deceased is taken to be working with the contractor, there is no permit brought on record to show that the deceased had permission to repair the fault of village Sihri which falls under Jamalgarh.

6. From the records, it is discernible that the only defence raised was w.r.t. the deceased being employee of the contractor. The said issue is fully covered under Section 12 of the 1923 Act, which reads as under:

“12. Contracting.- (1) Where any person (hereinafter in this section referred to as the principal) in the course of or for the purposes of his trade or business contracts with any other person (hereinafter in this section referred to as the contractor) for the execution by or under the contractor of the whole or any part of any work which is ordinarily part of the trade or business of the principal, the principal shall be liable to pay to any *[employee] employed in the execution of the work any compensation which he would have been liable to pay if that *[employee] had been



immediately employed by him; and where compensation is claimed from the principal, this Act shall apply as if references to the principal were substituted for references to the employer except that the amount of compensation shall be calculated with reference to the wages of the *[employee] under the employer by whom he is immediately employed.

(2) Where the principal is liable to pay compensation under this section, he shall be entitled to be indemnified by the contractor, or any other person from whom the *[employee] could have recovered compensation and where a contractor who is himself a principal is liable to pay compensation or to indemnify a principal under this section he shall be entitled to be indemnified by any person standing to him in the relation of a contractor from whom the *[employee] could have recovered compensation] and all questions as to the right to and the amount of any such indemnity shall, in default of agreement, be settled by the Commissioner.

(3) Nothing in this section shall be construed as preventing a *[employee] from recovering compensation from the contractor instead of the principal.

(4) This section shall not apply in any case where the accident occurred elsewhere than on, in or about the premises on which the principal has undertaken or usually undertakes, as the case may be, to execute the work or which are otherwise under his control or management.”

7. In view of the said provision, once it is admitted that the deceased was working under the contractor, the principal employee cannot escape liability, though it has a right to recover the compensation from the contractor.

8. So far as the plea raised before this Court regarding absence of permit is concerned, the same is beyond pleadings. Even if it is taken on its face value, the same remained uncorroborated. It is the appellant DHBVN



who was in possession of the best piece of evidence to show as to which agency/contractual employee was permitted to repair the electricity fault for the village in question. Admittedly, no evidence was led to that effect.

9. This is an appeal filed under Section 30 of the 1923 Act. Interpreting the same Supreme Court in ‘North East Karnataka Road Transport Corpn. Vs. Sujatha’, (2019) 11 SCC 514 observed as under :-

“11. The appeal provided under Section 30 of the Act to the High Court against the order of the Commissioner lie only against the specific orders set out in clause (a) to (e) of Section 30 of the Act with a further rider contained in first proviso to the Section that the appeal must involve substantial question of law.

12. In other words, the appeal provided under Section 30 of the Act to the High Court against the order of the Commissioner is not like a Regular First Appeal akin to Section 96 of the Code of Civil Procedure, 1908 which can be heard both on facts and law. The appellate jurisdiction of the High Court to decide the appeal is confined only to examine the substantial questions of law arising in the case.”

10. Keeping in view the provision of Section 30 of the Act of 1923 substantial question of law in the appeal is *sine qua non* to maintain the appeal. Finding no substantial question of law involved in the present, appeal, the same is ordered to be dismissed.

July 16, 2025
Dpr

(Pankaj Jain)
Judge

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No