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

FAO-256-2023 (O&M)

Date of decision : 10.03.2025

United India Insurance Co., Ltd.

..... Appellant

versus

Nandram & anr.

..... Respondents

CORAM : HON'BLE MR.JUSTICE PANKAJ JAIN

Present :- Mr. Pankaj Mohan Kansal, Advocate
for the appellant.
(V.C.)

Mr. Digvijay, Advocate for
Mr. Ashish Gupta, Advocate
for respondent No.1.

PANKAJ JAIN, J. (ORAL)

CM-1003-CII-2023

This is an application seeking condonation of delay of 94 days
in filing the present appeal.

For the reasons recorded in the application, this Court is
satisfied that the applicant-appellant has shown sufficient cause to condone
the delay in filing the appeal.

Application is allowed. Delay of 94 days in filing the appeal is
condoned.

FAO-256-2023

1 Insurance company is in appeal aggrieved of the order dated
01.07.2022 passed by Commissioner, Circle-IV, Gurugram under the
Employee's Compensation Act, 1923 (for short the 1923 Act).



2 Claim application was filed by the claimant-respondent No.1 seeking compensation on account of injuries suffered by him in a motor vehicular accident dated 03.02.2021. It was claimed by the claimant that he sustained amputation of right foot and has been rendered crippled for rest of his life on account of the accident that occurred during and in the course of employment. The claim petition was contested by respondent No.1-employer and the insurance company-respondent No.2 (the appellant herein). Though employer in the written statement denied employer-employee relationship, however, opted not to appear in the witness box. No attempt was made by the appellant-Ins. Company also to summon the employer and examine him. Commissioner after finding overwhelming evidence in form of documentary evidence relating to the occurrence came to the conclusion that the injured-claimant suffered injuries in an accident. His testimony of being employed on the vehicle as Cleaner remained unrebutted. Commissioner thus answered issue No.1 in favour of the claimant holding that there was employer-employee relationship with respondent No.1 and the claimant allowed the claim petition filed by the claimant holding him entitled for compensation of Rs.22,74,789/-.

3 Mr. Pankaj Mohan Kansal, Advocate for the appellant while assailing the impugned order passed by the Commissioner has emphatically raised issue with respect to employer-employee relationship. As regards finding recorded by the Commissioner on issue No.1, he submits that once employer had specifically denied relationship with the claimant and the onus laid heavily upon the claimant to prove the same. There cannot be any dispute with respect to the aforesaid proposition that the employee having



approached Commissioner was required to prove relationship and discharge onus. Applying the aforesaid parameters in the present case evidently claimant appeared and testified on oath before the authority that he was employed on vehicle owned by respondent No.1 as a Cleaner. The said stand of the claimant stands corroborated by the documentary evidence with respect to occurrence that has come on record which evidently shows that indeed the claimant got injured in the accident involving vehicle in question. Thus the claimant having discharged his onus, the same shifted upon the employer/insurer to rebut. There being no evidence led either by the insurer or the insured, this Court does not find any reason to interfere in the pure finding of fact recorded by the Commissioner, much less a substantial question of law which is *sine-qua-non* under Section 30 of the 1923 Act to maintain the appeal.

- 4 Finding no merits in the present appeal, the same is dismissed.
- 5 Pending application, if any, also stands disposed off.

10.03.2025
Pooja Sharma-I

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No