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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Judgment Reserved on: 10.12.2025*
Judgment pronounced on: 16.12.2025

+ **FAO 531/2016**
NATIONAL INSURANCE COMPANY LIMITEDAppellant

Through: Mr. Manoj Ranjan Sinha, Advocate
with Mr. Vishal Agrawal, Advocate

versus

OMBEER & ANRRespondents

Through: Mr. R.K. Nain Chandan Prajapati
Advocate with Ms. Arti Sharma,
Advocate for Respondent No.1

CORAM:
HON'BLE MS. JUSTICE CHANDRASEKHARAN SUDHA

JUDGMENT

CHANDRASEKHARAN SUDHA, J.

1. This appeal under Section 30 of the Employee's Compensation Act, 1923 (the EC Act) has been filed by respondent no. 2/ Insurance Company in WC/126/NW/12/2751 on the file of the Commissioner, Employee's Compensation,



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Employment Exchange Building, Pusha Complex, New Delhi, aggrieved by the order dated 08.04.2016 by which the claim for compensation filed by the claimant was allowed.

2. In this appeal, the parties herein unless otherwise specified will be referred to as described in the claim petition.

3. In the application for compensation filed under Section 22 of the EC Act, it is alleged thus:- The applicant/claimant Ombeer was employed as a cleaner in vehicle bearing No. DL-1L-E-3887 owned by respondent no. 1. On 08.07.2003, he sustained injuries in an accident which occurred during the course of his employment. The applicant/claimant while working as cleaner in the aforesaid vehicle on 08.07.2003 at about 12:00 noon sustained injuries. On the said day, while he was on the seat of the vehicle bearing No. DL-1L-E-3887 coming from Vijaypura, District Aligarh, U.P. towards Delhi loaded with goods and when the vehicle reached near Bulandsahar, a crane coming from the opposite side being driven in a rash and negligent manner, collided



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with his vehicle on the side where the seat of the cleaner is situated. The applicant/claimant was thrown on to the road whereby he sustained grievous injuries. He was immediately taken to Dinesh Fracture Clinic and Maternity Centre, Bulandsahar with the help of some persons. He was admitted in the hospital and remained there as an in-patient for about 8 days and after discharge, he returned to his village. The applicant/claimant incurred an expenditure of ₹ 70,000/- to 75,000/- for his treatment. After the accident, the applicant/claimant is not in a position to do any work as both his hands have become disabled. The disability is 100% as far as employment as a cleaner is concerned and he has become completely crippled. The vehicle bearing No. DL-1L-E-3887 is owned by respondent no. 1 and it was insured with respondent no. 2/M/s National Insurance Company Ltd. for the period from 19.07.2002 to 18.07.2003. An additional premium was also charged by respondent no. 2 from respondent no. 1 under the EC Act.



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3.1. The claimant was drawing wages @ ₹4,000/- per month and food allowance of ₹50/- per day. He was aged 18 years at the time of his accident. Respondent no. 1 was aware of the accident on the date of occurrence itself. Respondent no. 2/ the insurer was immediately informed of the accident. Moreover, a notice under Section 10 of the EC Act had also been served. The accident occurred during the course of the employment. Due to the injuries sustained, the extent of his disability is 100% and, therefore, as per Section 4 (1)(c) and 4(1)(d) of the EC Act, he is entitled to temporary and permanent disablement compensation along with interest @ 12% per annum from the date of accident till realization and penalty to the extent of 50%. Hence, the claim seeking a direction to the respondents to deposit the amount of compensation as per the EC Act.

4. Separate written statement was filed by both the respondents. Respondent no. 1 filed written statement admitting the factum of employment and the accident. It was admitted that



the claimant had met with an accident while working as a cleaner in the vehicle.

5. Respondent no. 2 filed written statement and an amended written statement in which they contended that the claim filed after a delay of 9 years from the date of the alleged accident, was not maintainable. Respondent no. 2 denied the allegation that the claimant had met with an accident as alleged in his application. However, the fact that the vehicle was owned by respondent no. 1 and that it had a valid policy issued by respondent no. 2 was admitted. The allegation that the claimant due to the accident had become 100% disabled, was also denied. It was contended that the driver of the vehicle was not holding a valid driving license. It was also contended that though the necessary documents were directed to be produced, respondent no. 1 failed to do so. As the driver did not have a valid license, there has been a violation of the policy conditions.

6. On completion of pleadings, necessary issues were raised



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by the Commissioner. The parties went to trial on the basis of the aforesaid pleadings. On behalf of the applicant/claimant, PW-1 to PW-3 were examined and Exhibits Ex. AW1/1 to Ex. AW1/5 were marked. On behalf of respondent no. 2, RW-1 was examined and Exhibit Ex. R2W1/2 to Ex. R2W1/1 was marked. On consideration of the oral and documentary evidence and after hearing both sides, the learned Commissioner condoned the delay and allowed the claim and awarded compensation of ₹1,19,528/- along with simple interest @ 12% per annum from the date of accident, i.e., 08.08.2003 till the date of realization. Aggrieved, respondent no. 2/ insurer has come with an appeal.

7. It was submitted by the learned counsel for respondent no. 2/ insurer that the claim was filed after a lapse of 9 years of the alleged accident. The claimant had not produced any evidence whatsoever in support of his claim. The claimant admits that no crime had been registered and that there are no contemporaneous medical records to substantiate his case. The only document that



has been produced is the disability certificate, which is dated 17.12.2012 and marked as Ex. AW1/1. The accident is alleged to have taken place on 08.07.2003. However, the disability certificate is dated 17.12.2012, issued after a lapse of more than 9 years and hence, the same cannot be relied on for establishing or substantiating the claim regarding the disability sustained. That being the position, the Commissioner went wrong in appreciating the evidence and allowing the claim, goes the argument.

8. *Per contra*, it was submitted by the learned counsel for the applicant/claimant that there has been a proper appreciation of the materials on record and that there is no infirmity in the impugned Award. It is also submitted that the learned Commissioner has referred to the various decisions of the Apex Court and has rightly appreciated the evidence in the correct perspective and, therefore, there is no infirmity calling for an interference for this Court.

9. Heard both sides.

10. I briefly refer to the evidence adduced by the claimant in



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support of the case. The applicant/claimant, Ombeer Singh was examined as PW-1 and the affidavit filed in lieu of chief-in-examination has been marked as PW-1/A. In his cross-examination, he deposed that as per his voter's identity card, his year of birth is 1993. According to him, his employer was one Param Pal Singh who had three vehicles. PW1 does not know the name of the driver who was driving the vehicle at the time of the accident. He was unable to refer to the registration number of the crane which had hit the vehicle in which he was working as a cleaner. He was also unable to say the details of the goods that were being carried in his vehicle nor could he provide the details of the address from which the goods were loaded and the destination where the goods were unloaded. He admitted that he had not given a complaint to the police regarding the accident. He also admitted that he is unable to produce any documents either relating to the accident or relating to the injuries sustained by him. He said that he is not possession of any documents to evidence his



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case of hospitalization. He admitted that he is not in possession of any documents to show that intimation of the accident had in fact been given to the respondent no. 2/ insurer after the accident. He denied the suggestion that no accident had occurred as alleged by him.

10.1 PW-2 Prem Pal Singh deposed that the claimant sustained injuries in the accident that occurred on 08.07.2003. He was informed about the accident and that he reached the place of occurrence by about 3:00 P.M. and took the claimant to the hospital, i.e. Dinesh Fracture Clinic and Maternity Centre, Bulandsahar. PW1 was admitted in the hospital and continued to be an in-patient for 8 days. After PW1's discharge, he was taken to his village. PW-2 further deposed that the claimant sustained expenses of about ₹70,000/- to ₹75,000/- for his treatment. In the cross-examination, PW-2 admitted that the claimant is his brother and that he had not witnessed the incident. He reiterated his case in chief examination that his brother was admitted in the hospital



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for about 7 to 8 days. However, he was also unable to refer to any documents relating to the admission of his brother in the hospital.

10.2 PW-3 Ranjeet Singh deposed that he was working with Tej Singh along with claimant, who was working as a cleaner in the vehicle owned by respondent no. 1. On 08.07.2003, while he was going along with the claimant in truck bearing No. DL-1L-E-3887, a crane coming from the opposite side and in the wrong direction hit his vehicle on the portion where the cleaner was seated. The claimant sustained injuries in the accident pursuant to which he took the claimant to Dinesh Fracture Clinic and Maternity Centre in Bulandsahar. According to PW-3, the claimant was hospitalized for about 7 days. In his cross-examination, he denied the suggestion that he was never the driver of vehicle bearing registration No. DL-1L-E-3887.

11. The specific case in the claim petition is that respondent no. 1/ Tej Singh is the owner of the lorry in which the claimant Ombeer was employed as a cleaner. But in his examination before



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the Court, PW-1 deposed that his employer is Prem Pal. Prem Pal was examined before this Court as PW-2 who does not have such a case. The claimant has not explained as to why there are no documents relating to the incident. Admittedly, no crime was registered. Even assuming that no crime was registered, there will certainly be documents to substantiate his case that he had been admitted in the hospital for about 8 days. The claimant neither in the pleadings nor in his evidence had a case that the documents were lost and, therefore, he is unable to produce the same. The disability certificate that has been produced is of the year 2012. The accident is alleged to have taken place on 08.07.2003. There is no explanation as to why the claimant was not subjected to medical examination and why no disability certificate obtained soon after the accident.

12. The learned Commissioner condoned the delay of 9 years, holding that, being a beneficial legislation, technicalities should not come in the way and the benefit must go to the injured.



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There is no doubt that the act being a social legislation, the interpretation should be liberal and relief should not be denied on technical grounds. However, in this case, it has to be noted that there are absolutely no contemporaneous records relating to the incident. The oral evidence let in by the claimant and his witness also does not inspire confidence of the Court relating to the occurrence of the incident.

13. That being the position, I find that there has been a complete misappreciation of the evidence on record by the Commissioner. It is true that under Section 30, it is only substantial questions of law that can be challenged in appeal. However, when there has been a complete misappreciation of the evidence on record, the said aspect is required to be looked into by this Court. I find that neither the oral nor the documentary evidence substantiates or proves the case of the claimant and hence, he is not entitled to the reliefs prayed for.



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14. In the result, the appeal is allowed and the impugned Award is set aside.

15. Application(s), if any pending, shall stand closed.

**CHANDRASEKHARAN SUDHA
(JUDGE)**

DECEMBER 16, 2025