



2025:DHC:10223



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

+ **FAO 561/2018**

RADHA & ORS

.....Appellants

Through: Mr. Anshuman Bal, Advocate.

versus

SUNIL AMBULANCE SERVICE & ANR

.....Respondents

Through: Mr. Pradeep Gaur, Advocate.

Date of Decision: 19th November, 2025

CORAM:

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

J U D G E M E N T

TUSHAR RAO GEDELA, J: (ORAL)

1. This is an appeal filed under Section 20 of the Employees Compensation Act, 1923 (hereinafter referred to as 'the Act') assailing the judgment/award dated 25.09.2018 passed by the learned Labour Commissioner, Vishwakarma Nagar, New Delhi, rejecting the claim petition of the appellants under Section 22 of the said Act.

2. On account of death of the husband of the appellant no.1 on 25.12.2016, learned counsel appearing for the appellants submits that in the impugned order, the learned Labour Commissioner has primarily rejected the claim on the ground that certain crucial documents supporting the claim of the appellants were not legible and that they were photocopies as such, the dismissal appears to be purely on the technical issues. He submits that the merits of the matter have not been properly examined. He submits that the appeal be allowed and the matter be remitted for consideration to the learned



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Labour Commissioner.

3. *Per contra*, Mr. Pradeep Gaur, learned counsel appearing for the respondent no.2/Insurance Company submits that though the submission of the learned counsel for the appellants may be correct with respect to certain documents only, however, it is incorrect to submit that the substratum of the impugned judgment is predicated only on technicalities and not merits. In that regard, he draws attention of this Court to para 15 onwards to submit that the bare minimum substratum to prove the employment with respondent no.1 i.e. the owner of the vehicle, has not at all been established by the appellants.

4. He also submits that no documentary or trustworthy evidence has been produced by the appellant/claimant that the deceased was employed by respondent no.1 on certain amount of wages. In that regard, he submits that in absence of such crucial evidence, the question of claim could not have been entertained by the learned Labour Commissioner.

5. This Court has heard the arguments of learned counsel for the parties as also perused the impugned order. To the extent that the learned Labour Commissioner has discarded certain documents on the basis that they are not legible, this court notes that the same is not merely a technical observation, but would be of certain substance affecting the merits of the matter. Particularly, keeping in view the fact that in para 12, the learned Labour Commissioner observes that the original insurance policy has not been produced and concludes that the photocopy thereof has not been proved in accordance with law. Similarly, the photocopy of the general diary Mark CW-1/10 also has been discarded primarily on the basis of it being not legible and being a photocopy thereto. The learned Labour Commissioner has further observed that the original has not been produced. Similar is the observation



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made in respect of the Post Mortem Report marked as Exhibit CW-1/11.

6. This Court also finds that so far as the proof of employment of the deceased husband of the appellant no.1 is concerned, impugned order observes that no document in support thereof has been produced by the appellant or obtained from the respondent no.1, stated to be the owner of the vehicle.

7. This Court, on the issue of no documentary proof being attached by the appellant/claimant to the claim petition, on a perusal of the Trial Court Record, finds that Exhibits CW-1/6 dated 25.06.2017 is a certificate issued by Mr. Sunil Kumar, owner of Sunil Ambulance on an original letter-head stating that the deceased was employed with him as a driver from the last six months, earning Rs.9,000/- per month. It appears that this document has not been considered by the learned Labour Commissioner while passing the impugned order.

8. Keeping in view the fact that many crucial documents were rejected purely on the basis of them being illegible as also being photocopies and also the observation in para 15 that no document in support of the employment of the deceased husband of the appellant/claimant has been filed, appears to be an erroneous conclusion reached by the learned Labour Commissioner. Patently, these observations are erroneous and perverse causing miscarriage of justice.

9. In view of the above, without examining further the merits of the case, since crucial documents including the original Exhibit CW-1/6 have not been taken into consideration or evaluated for their probative value, the impugned order could not have been passed.

10. In that view of the matter, the present appeal is allowed. The matter is



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remitted back to the learned Labour Commissioner, Employees Compensation (District North-West, Labour Department), Vishwakarma Nagar, Delhi, for a decision on merits. The learned Labour Commissioner is requested to dispose of the claim within a period of six months.

11. It is needless to state that the rights and contentions of the respondents are reserved. They are also permitted to file any additional document for evidence, if so required, which will be permitted by the learned Labour Commissioner.

12. Parties to appear before the learned Labour Commissioner on 08.12.2025.

13. The present order be remitted to the office of the learned Labour Commissioner at the earliest.

14. The appeal is allowed without any order as to costs.

TUSHAR RAO GEDELA, J

NOVEMBER 19, 2025

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