

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.1343 OF 2025

Ushadevi Karansingh Tak and Ors.

...Appellants

Versus

Santosh Rajaram Sharma and Another

...Respondents

Mr. Jitendra Gor, for the Appellants.

CORAM : SHARMILA U. DESHMUKH, J.

DATE : JANUARY 21, 2026

ORAL ORDER :

1. Heard the learned counsel for the Appellants.
2. The first Appeal challenges the judgment dated 15th February, 2025 passed by the Commissioner for Employees Compensation rejecting the Application seeking compensation on account of the death of one Karansingh Tak who was working as driver with Respondent No. 1.
3. The case of the Applicants is that the deceased was working as driver and on 8th July, 2018, the deceased loaded his vehicle with goods and left for Suratgarh, Rajasthan for delivery of the goods. On 10th July, 2018, the deceased reached Suratgarh and after unloading the goods, he parked his vehicle and due to continuous driving, he was taking rest

and passed away during night. The application came to be filed contending that due to strain and stress of duty, the deceased has expired.

4. The opposite party No. 1 filed the written statement admitting the employer employee relationship, the journey of the deceased from Mumbai to Suratgarh for delivery of the goods as also the death of the deceased. The opposite party No. 2 Insurance Company denied the existence of employer employee relationship and any liability to pay compensation.

5. The Trial Court framed necessary issues and as far as employer employee relationship is concerned answered the same in the affirmative. In so far as the issue as regards the accidental death of the deceased, the trial Court held that the factum of the death is proved but accident is not proved. The compensation came to be denied and hence the present Appeal.

6. Mr. Gor, learned counsel for the Appellant, submits that the death of the deceased has taken place by reason of continuous driving from Mumbai to Suratgarh which was a distance of 1300 km. He would further submit that the death was caused due to cardiac arrest or sudden collapse resulting from occupational stress and fatigue which constitutes an "accident" under section 3 of the Employees Compensation Act. He would further submit that it is not necessary

that the death be a result from an external injury and that the Commissioner has erroneously rejected the application leading to perversity of finding.

7. I have considered the submissions and perused the record.

8. In so far as existence of employer employee relationship is concerned, the same is not disputed. The only issue which arise for consideration is whether death was caused by reason of accident arising during the course of employment of the deceased with the opposite party No. 1.

9. Section 3 of the Employees Compensation Act fixes the liability of payment of compensation in event of personal injury caused to an employee by accident arising out of and in the course of his employment. The Trial Court has taken into consideration the oral as well as documentary evidence in the form of medical reports produced on record. It noted that in the claim application it is not mentioned that the death of the deceased has taken place due to heart attack whereas the deposition was that the deceased was died due to cardiac arrest. The Trial Court noted that the case put up during evidence has been substantially improved from the case set out in the application. The Trial Court further considered the judicial decisions as to whether cardiac arrest/ heart attack is an accident within the meaning of section 3 of the Act. The Trial Court has rightly noted that for heart attack to

be considered an accident, there must be connection established between the death of the deceased and his employment as a truck driver. Upon appreciation of oral and documentary evidence, the Trial Court noted that there is nothing on record to show that the death of the deceased was due to heart attack and to show any nexus between the death and the job of the deceased as driver.

10. Before the Trial Court, the medical reports were produced which ruled out any possibility of the death of the deceased being caused due to any cardiac problem or heart attack. There was no definite medico legal cause of the death and it was established from the postmortem report, viscera examination report, report of pathology and opinion of the Doctor that the death was not due to heart attack or any cardiac issue. The record indicates that the death of the deceased was a natural death and there is no material to establish nexus between the death of deceased and the employment of deceased as a driver. It was necessary for Applicants to bring evidence to demonstrate that the death took place by reason of continues driving, which is missing in present case. There is also no evidence to support the deposition that death was caused due to cardiac arrest heart attack. On the contrary, the medical records prove otherwise.

11. The Trial Court has appreciated the evidence on the basis of material on record and there is no perversity demonstrated in the

findings of the trial Court. The provisions of Section 30 of the Act provides the remedy of an Appeal only on a substantial question of law.

12. Considering the evidence which has come on record, the trial Court has rightly appreciated the evidence and there is no perversity demonstrated. Hence, no substantial question of law arises in the present case.

13. The Appeal stands dismissed.

[SHARMILA U. DESHMUKH, J.]