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

**FAO No.3598 of 2023 (O&M)
Date of decision : 17.03.2026**

ORIENTAL INSURANCE COMPANY LIMITED
Versus

....Appellant

CHAHANA AND ORS.

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Mayank Thakur, Advocate
for the appellant (through V.C.).

PANKAJ JAIN, J. (ORAL)

CM-11906-CII-2023

This is an application filed under Section 151 CPC seeking condonation of delay of 54 days in re-filing the instant appeal.

For the reasons recorded in the application, this Court is satisfied that the applicant/appellant has made out a sufficient cause for condonation of delay.

Consequently, the present application is allowed. The delay of 54 days in re-filing the instant appeal is hereby condoned.

CM-11904-CII-2023

This is an application filed under Section 5 of Limitation Act seeking condonation of delay of 237 days in filing the instant appeal.

For the reasons recorded in the application, this Court is



satisfied that the applicant/appellant has made out a sufficient cause for condonation of delay.

Consequently, the present application is allowed. The delay of 237 days in filing the instant appeal is hereby condoned.

FAO No.3598 of 2023 (O&M)

Insurance Company is in appeal aggrieved of the order dated 11.04.2022 passed by Commissioner under the Employee's Compensation Act, 1923 (hereinafter referred to as '1923 Act').

2. The claimants are seeking compensation on account of death of one Iqbal Singh, who was employed as a driver on vehicle No.HR-55-Q-3010. As per the claimants, he was murdered while on duty. Thus, having lost his life in an accident arising out of and during the course of employment, the claimants are entitled for compensation.

3. The Commissioner allowed the claim petition awarding compensation of Rs.8,31,920/- apart from funeral expenses and other statutory benefits.

4. Counsel for the Insurance Company has assailed the order passed by the Commissioner holding that since it is a case wherein the deceased was murdered, he cannot be held to have lost his life during the course of employment. There being no causal relationship between death and the employment, the present claim application could not have been entertained by the Commissioner.



5. I have heard counsel for the appellant and have carefully gone through records of the case.

6. The issue w.r.t. murder of a driver while on duty is no more *res integra* and has been answered by Supreme Court in the case of **Smt. Rita Devi vs. New India Assurance Co. Ltd., 2000 (5) SCC 113**, observing as under:

“10. The question, therefore, is can a murder be an accident in any given case? There is no doubt that murder, as it is understood, in the common parlance is a felonious act where death is caused with intent and the perpetrators of that act normally have a motive against the victim for such killing. But there are also instances where murder can be by accident on a given set of facts . The difference between a murder which is not an accident and a murder which is an accident, depends on the proximity of the cause of such murder. In our opinion, if the dominant intention of the Act of felony is to kill any particular person then such killing is not an accidental murder but is a murder simplicitor, while if the cause of murder or act of murder was originally not intended and the same was caused in furtherance of any other felonious act then such murder is an accidental murder.

11. In *Challis vs. London and South Western Railway Company (1905 2 Kings Bench 154)*, the Court of Appeal held where an engine driver while driving a train under a bridge was killed by a stone willfully dropped on the train by a boy from the bridge, that his injuries were caused by an accident. In the said case, the Court rejecting an argument that the said incident cannot be treated as an accident held: The accident which befell the deceased was, as it appears to me, one which was incidental to his employment as an engine driver; in other words it arose out of his employment. The argument for the respondents really involves the reading into the Act of a proviso to the effect that an accident shall not be deemed to be within the Act, if it arose from the mischievous act of a person not in the service of the employer. I



see no reason to suppose that the Legislature intended so to limit the operation of the Act. The result is the same to the engine driver, from whatever cause the accident happened; and it does not appear to me to be any answer to the claim for indemnification under the Act to say that the accident was caused by some person who acted mischievously.

12. In the case of *Nisbet vs. Rayne & Burn (1910) 1 KB 689*, where a cashier, while travelling in a railway to a colliery with a large sum of money for the payment of his employers workmen, was robbed and murdered. The Court of Appeal held:

“That the murder was an accident from the standpoint of the person who suffered from it and that it arose out of an employment which involved more than the ordinary risk, and consequently that the widow was entitled to compensation under the Workmens Compensation Act 1906. In this case the Court followed its earlier judgment in the case of *Challis (supra)*. In the case of *Nisbet*, the Court also observed that it is contended by the employer that this was not an accident within the meaning of the Act, because it was an intentional felonious act which caused the death, and that the word accident negatives the idea of intention. In my opinion, this contention ought not to prevail. I think it was an accident from the point of view of *Nisbet*, and that it makes no difference whether the pistol shot was deliberately fired at *Nisbet* or whether it was intended for somebody else and not for *Nisbet*.

13. The judgment of the Court of Appeal in *Nisbet's* case was followed by the majority judgment by the House of Lords in the case of *Board of Management of Trim Joint District School vs. Kelly (1914 AC 667)*.

14. Applying the principles laid down in the above cases to the facts of the case in hand, we find that the deceased, a driver of the auto rickshaw, was duty bound to have accepted the demand of fare paying passengers to transport them to the place of their destination. During the course of this duty, if the passengers had decided to commit an act of felony of stealing the auto rickshaw and in the course of achieving the said object of stealing the auto rickshaw, they had to eliminate the driver of the auto rickshaw then it cannot but be said that the death so caused to the driver of the auto rickshaw was an accidental murder. The stealing of the auto



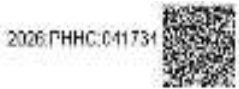
rickshaw was the object of the felony and the murder that was caused in the said process of stealing the auto rickshaw is only incidental to the act of stealing of the auto rickshaw. Therefore, it has to be said that on the facts and circumstances of this case the death of the deceased (Dasarath Singh) was caused accidentally in the process of committing the theft of the auto rickshaw.”

7. The aforesaid ratio was considered by this Court in **FAO No.1558 of 1994** titled as ‘**United India Insurance Co. Ltd. vs. Smt. Sharda Devi and another**’ to observe as under:

“10. There is no denial to the fact that the deceased lost his life in a murder. There is nothing on record that shows that the perpetrator of the act had any motive against the victim for the killing. Thus, it cannot be said that the dominant intention behind the act of felony was to kill the deceased. Thus, the inevitable conclusion in terms of the law laid down in **Rita Devi's case** (supra) is that the murder of the deceased being not intended, is an ‘accidental murder’ and would thus fall within the ambit of ‘accident’ as enumerated under Section 3 of the Act of 1923. It has also come on record that the deceased was on the duty, driving the vehicle as per the diktat of his employer and, thus, from the point of view of the claimant and the deceased the incident that led to loss of life of the deceased is nothing but an ‘accident’.”

8. In view thereof, this Court finds that the Commissioner has rightly held that the deceased lost his life in an accident arising out of and during the course of employment and rightly awarded compensation under 1923 Act.

9. Finding no merit in the present appeal, the same is ordered to be dismissed.



10. Pending application, if any, shall also stand disposed off.

March 17, 2026

Dpr

Whether speaking/reasoned

Whether reportable

:

:

Yes/No

Yes/No

(Pankaj Jain)

Judge