

FAO-248-1996 (O&M)

2026.F1111C.050648



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO-248-1996 (O&M)
Date of decision : 01.04.2026

The New India Assurance Co. Ltd.

..... Appellant

Versus

Shri Ganga Ram & ors.

..... Respondents

CORAM : HON'BLE MR.JUSTICE PANKAJ JAIN

Present :- Mr. Deepak Suri, Advocate
for the appellant.

Mr. Nayandeep Rana, Advocate and
Mr. Neeraj Mann, Advocate
for respondents No.1 & 2.

PANKAJ JAIN, J. (ORAL)

1 Insurance company is in appeal aggrieved of order dated 20.11.1995 passed by the Commissioner, Gurgaon under Workmen's Compensation Act, 1923 (for short, 'the Act).

2 The claim relates to death of Om Parkash son of the claimant- Ganga Ram who died in an accident arising out of and during the course of employment while driving insured truck No.RJ-02-1158. The Commissioner after analyzing evidence came to the conclusion that relationship between the deceased and the insured, i.e. respondent No.3 stands proved. It stands proved that deceased-Om Parkash died of injuries suffered in the accident and accordingly awarded compensation of Rs.85,428/-.

3 Mr. Deepak Suri, Advocate for the appellant has assailed the findings recorded by the Commissioner. He submits that there is no evidence



with respect to employer-employee relationship between the deceased and respondent No.3, yet the Commissioner has awarded compensation. He further submits that the liability to pay the penalty amount has to be borne by the employer and not by the insurance company.

4 I have heard learned counsel for the parties and have gone through the records of the case.

5 In terms of Section 2 (1) (dd) of the 1923 Act the contract of employment can be expressed or implied. The same may be oral or in writing. The fact regarding Om Parkash having lost his life while driving the insured vehicle stands proved. In view thereof, this Court finds that the Commissioner rightly answered issue No.1 in favour of the claimant. The argument raised by Mr. Deepak Suri, Advocate *sans* merit and cannot be accepted.

6 In view of mandate of Section 4A of 1923 Act as interpreted by Supreme Court in '*Ved Prakash Garg versus Prem Devi*' reported as 1997 AIR (SC) 3854, the contention raised by counsel representing insurance company with respect to liability to pay penalty is accepted. Impugned order passed by the Commissioner is modified only to the extent that the penalty amount awarded by the Commissioner shall be paid by the employer and not by the insurer.

7 With the aforesaid modification the appeal is disposed off.

01.04.2026

Pooja Sharma-I

Whether speaking/reasoned:
Whether reportable:

(PANKAJ JAIN)
JUDGE

Yes/No
Yes/No