

2026:PHHC:004197



**[112] IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

FAO-1353-1998 (O&M)

Reserved on 30.10.2025

Pronounced on 15.01.2026

Uploaded on 15.01.2026

Whether only operative part of the judgment is pronounced? **Yes/No**

Whether full judgment is pronounced? **Yes/No**

Kashmir Kaur widow of
Shri Jasbir Singh and another

...Appellants

versus

Oriental Insurance Company
Limited and another

....Respondents

Coram : **HON'BLE MR. JUSTICE PANKAJ JAIN**

Present: Mr. Krishan Singh Dadwal, Advocate and
Ms. Neha Jain, Advocate
for the appellants.

Ms. Madhu Sharma, Advocate for respondent No.1-
Insurance Company.

PANKAJ JAIN, J. (ORAL)

[1] Claimants are in appeal.

[2] Challenge is to Order dated 11.05.1998 passed by the
Commissioner under the Workman Compensation Act, 1923, Hoshiarpur
(now known as Employees Compensation Act, 1923), whereby the claim
petition filed by the claimants seeking compensation on account of death of
Jasbir Singh stands dismissed.

[3] As per the case of the claimants, Jasbir Singh was employed as
driver by respondent No.2 on his tractor. On the directions of respondent

No.2, Jasbir Singh went to get the planter repaired from the dealer. While he was coming back, the tractor met with an accident which led to death of Jasbir Singh at the age of 27 years. Claimants thus claimed that Jasbir Singh, who was employed with respondent No.2 as driver on a monthly salary of Rs.2300/- per month died in an accident arising out of and during the course of employment and thus, the claimants are entitled to compensation under the 1923 Act.

[4] Respondent No.2 filed written statement, admitting the contents of the claim petition.

[5] Claim petition was contested by respondent No.1-Insurance Company, denying relationship between Jasbir Singh and respondent No.2. As per Insurance Company, the claim petition was a result of collusion between the claimants and respondent No.2 as Jasbir Singh was none else but son of respondent No.2.

[6] Commissioner referred to an admission made by AW1-Paramjit Singh, the eye witness of the accident, and held that since AW1 admitted that Jasbir Singh was not employed but was driving his own tractor, there is no employee-employer relationship. The claim petition was dismissed.

[7] Learned counsel for the appellants has assailed the findings recorded by the Commissioner. He submits that merely for the reason that the deceased happened to be son of employer, the claim cannot be rejected holding that there is no employee-employer relationship. In order to buttress his submissions, he relies upon judgment of this Court in '**National Insurance Company Limited versus Smt. Simran and others**', 2022(4) SCT 742, the judgments of the Karnataka High Court in '**United India Insurance Company Limited versus Malleshappa son of Mahadevappa**

Asundi and another', MFA No.5572 of 2008 decided on 23.09.2016, and **'United India Insurance Company Limited versus Prakash Shankar Gaurav and another'**, MFA No.6641 of 2003 (WC) decided on 21.07.2005, judgments of the Himachal Pradesh High Court in **'National Insurance Company versus Surjit Singh and 'Surjit Singh versus Dilbag Singh'** FAO No.220 of 2004 and FAO-214 of 2004, decided on 01.05.2009; and the judgment of the Madras High Court in **'United India Insurance Company Limited versus D. Manikandan'** CMA No.2531 of 2015 and M.P. No.1 of 2015 decided on 18.02.2020.

[8] *Per contra*, learned counsel for respondent No.1-Insurance Company submits that pure finding of fact has been recorded by the Commissioner, which is based upon admission made by none else but witness namely Paramjit Singh, AW1, examined by the claimant. He is evidently known to the family of the deceased and hence his testimony is most pertinent piece of evidence.

[9] I have heard learned counsel for the parties and have carefully gone through record(s) of the case.

[10] The issue that arises for the consideration of this Court is *qua* employee-employer relationship between the deceased and respondent No.2. It is not in dispute that deceased-Jasbir Singh was son of respondent No.2-Simar Chand-the registered owner of tractor. It is also not in dispute that Jasbir Singh died while driving tractor owned by respondent No.2. Claimants examined AW1-Paramjit Singh to prove accident. In his cross-examination, a suggestion was given to him that the tractor belonged to the family of the deceased and that the deceased was not an employee. He admitted to the suggestion. The same has been taken to be admission on part

of AW1 by Commissioner. The claimant-Kashmir Kaur widow of Jasbir Singh appeared as PW2. She specifically deposed that her deceased husband was employed with Simar Chand, owner of tractor, on a monthly salary of Rs.2300/-. She deposed that prior to his employment with Simar Chand, deceased-Jasbir Singh was working with Parshotam Singh as a tractor driver. She stated that she, along with her daughter and husband are living separately from her in-laws since July, 1993. It has also come on record that Simar Chand was a retired government employee.

[11] Simar Chand also appeared as RW1. A specific suggestion was put to him in cross-examination that in fact he purchased tractor for Jasbir Singh and deceased was not working as employee. He denied the suggestion. No suggestion was put by the Insurance Company to Simar Chand in the cross-examination regarding salary not being paid by him to deceased-Jasbir Singh.

[12] In view thereof, this Court finds that the Commissioner erred in relying upon a suggestion admitted by AW1 who is stranger to the affairs between deceased and respond No.2 to hold that there was no employee-employer relationship between the parties. Mere blood relation between deceased and employer cannot oust the possibility of there being employee-employer relationship between the parties. This Court is supported by the following view taken by a Co-ordinate Bench of this Court in '**Smt. Simran and others**' case (supra):-

“6. In the considered opinion of this Court, the arguments raised are not sustainable. Firstly, the wife of the deceased stepped into the witness-box and stated in affirmative qua the relationship of the employer-employee. Merely because the plea taken was that the father was the employer would not be a ground as such to come to

any implied conclusion that the father cannot employ the son. It is not disputed that the death was on account of a road accident while coming back from Gorakhpur, U.P. where the deceased-Phool Singh had gone while driving his Omni vehicle while dropping a patient. It was a positive case that he was employed as a driver in the said vehicle. The wife-Simran had given her affidavit and was duly cross-examined. She stated that she and her children were living separately independently on the first floor of the house whereas the father-in-law used to stay on the ground-floor. It has also come on record that the father-in-law had divorced his wife. It is thus apparent that the father-in-law was living alone and was not staying with his son and daughter-in-law on the first floor. The father also appeared in the witness-box and was duly cross-examined and denied any such suggestion that the son was not the employee.

7. *Merely because there was relationship of father and son and employer-employee would not be a ground to hold adversely on the ground that there was no employment inter se. Reliance has been rightly placed upon the judgment of the Uttarakhand High Court in **United India Insurance Company Ltd. Vs. Baljeet Kaur & another 2008 (20) SCT 234** wherein also interference was not done while noting that the employer was the driver of the vehicle of the father.*

8. *Reliance can also be placed upon the judgment of the Karnataka High Court in **New India Assurance Company Ltd. Vs. Gajanan D. Dengi & another 2008 (4) SCT 505**, wherein it was noticed that it was not uncommon amongst the business family to engage their own kith and kin on employment for doing the business or commercial activity. Therefore, the legal relationship of employer-employee could always be a consideration in kind especially while referring to the rural life-style where a person employs family members for the purpose of running tractor-trailer etc. Similar view was also taken by the Karnataka High Court in **Oriental Insurance Company Ltd. Vs. Ramesh & another 2016 ACJ 519**. In such circumstances, this Court is of the considered opinion that the findings recorded by the Commissioner does not suffer from any infirmity on this account."*

[13]

Section 2(1) (dd) (iii) contemplates that the contract of

employment can be expressed or implied; the same can be written or oral. It stands proved on record that Jasbir Singh was not pursuing any other vocation apart from driving the tractor. Prior to his employment on the present tractor owned by respondent No.2, he was employed as a driver of tractor with some other employer. All these factors have been totally ignored by the Commissioner. Instead of taking a holistic view and analyzing the entire evidence, he got swayed away by a mere suggestion put to an eye witness of the accident who had no knowledge of the affairs of employer or that of the deceased-employee.

[14] In view thereof, this Court finds that the findings recorded by the Commissioner being perverse cannot be sustained and need to be set aside. Accordingly, it is held that the deceased-Jasbir Singh lost his life in an accident arising out of and during the course of his employment as a driver on tractor bearing No.PB07-D-5592 owned by respondent No.2.

[15] In view of the above, this Court finds that the claimants are entitled for compensation, which is computed as under:-

213.57 - Relevant factor as per Schedule IV considering 27 years of age of deceased.

213.57 x 4000 x 50 / 100 = 427140/-

[16] The claimant(s) is also held entitled for interest @ 12% per annum for the period commencing from 30 days after the date of accident i.e. 30 days after 27.08.1996 till the date of actual realization apart from penalty which will be 35% of the compensation amount. The penalty shall also carry an interest of 7% per annum for the period commencing from 30 days after the date of accident till the date of actual realization.

[17] **Allowed.**

[18] All pending miscellaneous application(s), if any, stands
disposed off.

(PANKAJ JAIN)
JUDGE

15.01.2026
'R. Sharma'

Whether speaking/ reasoned : *Yes / No*
Whether reportable : *Yes / No*