



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

**FAO-2744-2025 (O&M)
Date of decision : 09.02.2026**

SWIGGY PRIVATE LIMITEDAppellant

Versus

SMT. MAMTA AND OTHERS ...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Sukhandeep Singh, Advocate
for the appellant.

PANKAJ JAIN, J. (ORAL)

CM-19856-CII of 2025

For the reasons recorded in the application, the same is allowed.

Documents, marked as Annexure A-6 (Colly) are taken on record, subject to all just exceptions.

FAO-2744-2025 (O&M)

Challenge in the present appeal is to the order dated 28.08.2024 passed by the Commissioner under the Employee's Compensation Act, 1923 (hereinafter referred to as '1923 Act')

2. The claim petition was filed under the 1923 Act seeking compensation on account of death of Jitender. As per claimants, Jitender died in an accident arising out of and during the course of employment.

2.1. As per claimants, the deceased was working with respondents No.1 and 2 as a part time delivery boy on a monthly salary of Rs.10,000/-



(Approx.) per month. While he was on duty to deliver the food item on motor-cycle bearing registration No.CH-01-AZ-2485, he was hit by a car and lost his life. FIR bearing No.0094, dated 04.12.2021 came into being for the offences punishable under Sections 279, 304-A IPC, at Police Station IT Park, Chandigarh against the driver of the offending car.

3. The Commissioner after analysing the evidence on record, came to the conclusion that deceased Jitender lost his life during the course of employment with respondent No.1 and 2 and thus the claimants are entitled for compensation of Rs.11,73,525/- along with interest.

4. Counsel for the appellant has assailed the findings recorded by the Commissioner. He has drawn attention of this Court to the written statement filed by the appellant before the Commissioner. As per which, relationship of employment has been denied. There was a contract of engagement on principal-to-principal basis between the deceased and respondent No.1. Respondent No.1 is only an aggregator platform. The orders are received and the persons interested in delivering the food, register themselves. They are paid accordingly on order to order basis. He thus, submits that there being no employer-employee relationship, the accident would not fall within the ambit of 1923 Act. Further submits that there being no recruitment as contemplated under Section 2(1)(dd)(ii)(c), deceased cannot be held to be 'employee'.

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



6. The pleadings made in the written statement as referred to by the counsel for the appellant, read as under:

“4. It is incorrect to state that the deceased Jitender kumar was the employee of the Respondents. The Deceased Jitender kumar was engaged with Respondents as Pickup and Delivery Partner (PDP) on principal to principal basis. The contractual engagement is on a Principal to Principal basis and said deceased Jitender is recognised as Third-party Pick-up and Delivery Partners (PDP's) as such these Individuals engage themselves voluntarily, to undertake the task of picking-up of the packed food from a Restaurant and ensure its delivery to Customers. To clarify, Respondents/Swiggy's role is limited to relaying the Order electronically to such PDP's who will make themselves available by logging into the Swiggy Delivery Partner Application, who in-tum independently complete the task of pick-up and delivery. Prior to engaging voluntarily with Respondent, it is prerequisite on the part of PDP's to understand and agree to a click wrap agreement which is available on Respondents/Swiggy's delivery partner application, enabling the online companies including the Respondents to have contracts in place with numerous customers without negotiating with them individually. A copy of a sample agreement entered into between Bundl Technologies Pvt Ltd and deceased Jitender Kumar is annexed hereto as **Annexure – A**.

5. It is respectfully submitted that the deceased was not an employee/workmen, and hence the question of applicability of the Employee's Compensation Act doesn't arise. What is most material to the facts on hand is that these PDPs including the deceased Jitender Kumar was at full liberty to decide as to when and for how long they would like to be available for receiving delivery requests. There is no hard and fast set of guidelines, timelines that dictate in any way, shape or form the timing aspect of their engagement with Respondent/Swiggy. If anything, this is an adequate representation of the entirely voluntary and flexible



partnership between Respondent /Swiggy and deceased Jitender Kumar.

6. It is respectfully stated that since the deceased Jitender Kumar cannot be considered as an employee/workmen, the very question of enrolment as well as applicability under Employee's. Compensation Act doesn't arise. The most important material to the facts in hand is that these PDPs including the deceased Jitender Kumar are at full liberty to decide as to when, and for how long, they would like to be available for receiving and taking up tasks of delivery. Hence the said PDPs (including the deceased Jitender Kumar) are/was also free to pursue any other line of work or assignments from other parties/companies simultaneously.

7. It is also pertinent to mention that the deceased Jitender Kumar was not paid fixed wages but variable compensation based on time allocated to Respondent/ Swiggy and number of deliveries all prompted by self-choice and not as per Respondents/ Swiggy's directions. This payment can be termed as 'Service Fees' but not Wages. Besides this, the deceased Jitender Kumar enjoyed complete freedom of choosing work and there is no precondition to take up a minimum number of assignments.”

6. From above, it is clear that so far as the working of the deceased with respondent No.1 is concerned, the same is not in dispute. The appellant in their written statement however claim that the contract of employment being ‘principal-to-principal’ basis and that there was no employer-employee relationship.

7. Counsel for the appellant does not dispute that the agreement though pleaded, remained unproved.

8. In these circumstances, this Court finds that once it is not in dispute that the deceased was working with the appellant and the appellant



failed to prove the plea of there being a contract of employment on ‘principal-to-principal’ basis, no fault can be found with the findings recorded by the Commissioner.

9. In terms of Section 30, employer in order to maintain appeal under the 1923 Act, is required to show substantial question of law involved. Section 30 of 1923 Act has been interpreted by Supreme Court in the case of ‘North East Karnataka Road Transport Corpn. Vs. Sujatha (2019) 11 SCC 514, observing as under:

“11. The appeal provided under Section 30 of the Act to the High Court against the order of the Commissioner lie only against the specific orders set out in clause (a) to (e) of Section 30 of the Act with a further rider contained in first proviso to the Section that the appeal must involve substantial question of law.

12. In other words, the appeal provided under Section 30 of the Act to the High Court against the order of the Commissioner is not like a Regular First Appeal akin to section 96 of the Code of Civil Procedure, 1908 which can be heard both on facts and law. The appellate jurisdiction of the High Court to decide the appeal is confined only to examine the substantial questions of law arising in the case.

10. Finding no question of law, much less substantial question of law involved in the present appeal, the same is ordered to be dismissed.

11. Pending application, if any, shall also stands disposed off.

February 09, 2026

Dpr

(Pankaj Jain)

Judge

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No