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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **FAO 167/2019 & CM APPL. 17769/2019**
CM APPL. 17770/2019

M/S R K TIMBER & ANR

.....Appellants

Through: **Mr. Sunil Kumar and Mr. Shivam Panchal, Advocates**

versus

KOSHI DEVI

.....Respondent

Through: **Mr. Bijay Kumar and Mr. Ashok Nigam, Advocates**

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

% 07.04.2026

CM APPL. 17770/2019 (For waiving the condition of submitting the certificate)

1. By way of the present application, the applicants/ appellants seek waiver of the condition of submitting the certificate issued by the Ld. Commissioner, Employees' Compensation, in regard to the applicants having deposited the award amount with him.
2. In view of the order dated 18.02.2020, whereby it was observed that the entire awarded amount stands deposited with the learned Commissioner, the relief sought in the present application no longer survives for consideration, and the application has now become infructuous.
3. Accordingly, the application is disposed of.



FAO 167/2019 & CM APPL. 17769/2019 (Stay)

1. The present appeal has been filed under Section 30 of the Employees' Compensation Act, 1923 (hereinafter referred to as the "Act"), assailing the order dated 05.02.2019 passed by the learned Commissioner, whereby compensation of Rs. 7,58,240/- along with interest @ 12% per annum was awarded in favour of the respondent/claimant on account of death of one *Sarwan Kumar* (hereinafter referred to as the "deceased").
2. The challenge raised in the present appeal lies in a narrow compass. The principal contention urged on behalf of the appellants is with regard to the finding returned by the learned Commissioner on the issue of existence of the employer-employee relationship between the deceased and the appellants.
3. The case of the claimant is that the deceased was working as a labourer with the appellants, and on 04.06.2017, while carrying out work at the premises of the appellants, he sustained fatal injuries. The appellants, on the other hand, have denied such relationship and sought to contend that the deceased was working as an independent contractor along with his associates.
4. The learned Commissioner, upon consideration of the pleadings and evidence, has returned a finding that the deceased died due to injuries sustained during and in the course of his employment with the appellants. The said finding forms the core of the present challenge.
5. This Court has perused the impugned order as well as the material on record. A perusal, thereof, would show that the learned Commissioner has not proceeded on mere assumptions, but has taken into account the admissions of the appellants as emerging from their written statement, as



well as their evidence.

6. In the written statement, the appellants have admitted that on the date of incident, the deceased “*along with his associates came to him and asked him for contract labour work*” and that they were engaged to “*place out 200 bailies outside the shop*”. It has further been admitted that while carrying out the said work, “*bailies suddenly came down and the deceased fell down and bailies fell over him*”, as a result of which he sustained injuries.

7. Further, in the cross-examination, the appellant has admitted that the deceased was directed to carry out the work of lifting the bailies. The relevant portion noticed by the learned Commissioner records that the respondent had “*directed the deceased to lift the bailies*” and that the work was being carried out at his premises.

8. The aforesaid admissions, when read cumulatively, clearly indicate that the work was being performed under the control and supervision of the appellants and for their benefit. The mere nomenclature of the deceased as a “contractor” would not, in the facts of the present case, dilute the real nature of his engagement. It is well settled that the existence of employer-employee relationship is to be determined on the basis of the degree of control, supervision and integration of the worker with the establishment, and not merely on the basis of the terminology used by the parties.

9. The learned Commissioner has also taken note of the FIR registered in respect of the incident, wherein it is recorded that the deceased and his associates were carrying out labour work at the establishment of the appellants and had even cautioned the owner regarding the unsafe condition of the bailies. The said extract reads to the effect that the co-worker of the deceased had informed the owner that “*the bailies... are very weak, some*



accident may occur, but he kept on making us to do work.”

10. The contention of the appellants that there is no documentary proof of employment also does not merit acceptance. In cases involving manual labour and informal employment, strict proof by way of appointment letters or wage registers is seldom available, and the relationship can be established on the basis of oral evidence and surrounding circumstances.

11. The learned Commissioner has also noticed contradictions in the stand of the appellants, inasmuch as on the one hand, they denied the relationship of employment, while on the other hand, they admitted engagement of the deceased for the work in question and the occurrence of the accident at their premises. Such inconsistent stands have been rightly appreciated while returning the finding.

12. At this stage, it is apposite to note the limited scope of interference under Section 30 of the Act. The Hon’ble Supreme Court in “North East Karnataka Road Transport Corporation v. Sujatha¹” has held that the appeal under Section 30 lies only on substantial questions of law, and the findings of fact recorded by the Commissioner are not to be interfered with unless shown to be perverse or based on no evidence.

13. Applying the aforesaid principles, this Court finds that the finding returned by the learned Commissioner on the issue of employer-employee relationship is based on appreciation of evidence, including admissions of the appellants, and does not suffer from perversity or legal infirmity so as to give rise to any substantial question of law.

14. The present appeal, in effect, seeks a re-appreciation of evidence, which is impermissible within the limited appellate jurisdiction under

¹ (2019) 11 SCC 514



Section 30 of the Act, and no ground for interference is made out.

15. In view of the above, the appeal is accordingly dismissed.

MANOJ KUMAR OHRI, J

APRIL 7, 2026

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