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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **FAO 89/2025**

THE NEW INDIA ASSURANCE CO. LTD.Appellant

Through: **Mr. Himanshu Bhushan &
Ms. Shagun Srivastava, Advs.**

versus

GANESH SINGH KARKI AND ORSRespondents

Through: **Mr. R.K. Nain, Mr. Daksh Nain &
Mr. Chandan Prajapati, Advs. for R-1.**

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

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06.04.2026

CM APPL.11145/2026

1. With the consent of the learned counsels for the parties, the present appeal is taken up for hearing today.
2. In view of the above, the present application has become infructuous and is disposed of accordingly.

FAO 89/2025

1. The present appeal filed under Section 30 of the Employee's Compensation Act, 1923 is directed against the Order dated 07.02.2025 passed by the learned Commissioner, North District, Government of NCT of Delhi, in case no. ECI/109/ND/2022, whereby the injury compensation was allowed.
2. Briefly, the claim application was allowed on the ground that, while being employed as a driver of respondent no. 2 (hereinafter referred to as the 'employer') on truck bearing no. HR-55L-5596, the claimant met with an accident on 17.05.2019, which arose out of and during the course of his



employment. It was stated that on 16.05.2019 at about 11:00 PM, after getting the vehicle loaded with cement ‘*chadder*’ at *Faridabad*, he left for *Kathmandu, Nepal*. When the vehicle crossed *Bulandshahar* and reached near *Narora, Uttar Pradesh*, the truck was moving in its lane when suddenly another vehicle, coming from the wrong side, hit the truck head-on. On account of the said accident, the claimant sustained grievous injuries and fell unconscious. He was extricated from the damaged vehicle by other drivers (*Suresh and Shiva*), who got him admitted to J.N. Medical College, *Aligarh, Uttar Pradesh*, where he remained in the I.C.U. for 03 days and thereafter, remained in coma, regaining consciousness after about 06 months.

The claimant suffered injuries all over his body, however, the injuries to his left leg and head resulted in a loss of 100% earning capacity. It was stated that at the time of the accident, the truck in question was duly insured under an insurance policy valid from 29.09.2018 to 28.09.2019. The Insurance Company had also charged an additional premium under the Employee’s Compensation Act, 1923. The claimant stated that he was 30 years old and earning a salary of Rs.15,000/- per month along with Rs.300/- per day as food allowance. The claim application also explained the delay and sought the benefit of the decision of the Supreme Court in “*In Re: Cognizance for Extension of Limitation*”, *Suo Motu Writ Petition (C) No. 03/2020*, whereby the period from 15.03.2020 to 14.03.2021 was directed to be excluded while computing limitation.

3. The claim application was resisted by the employer as well as the insurance company by filing their written statements. The employer, though denied the employer-employee relationship, did not enter the witness box. The insurance company, in its written statement, while denying its liability



to pay compensation, claimed that the truck in question did not possess the requisite fitness certificate and permit, however, no specifics were provided. The claimant, besides examining himself, also examined his brother, Sh. *Prem Singh Karki*, *Ran Singh*, and *Prakash Chand*. *Prem Singh Karki* deposed regarding the injured being employed as a driver of the truck in question and also about his subsequent hospitalisation after the accident. There was no cross-examination by the employer and the cross-examination was conducted only by the insurance company.

4. *Ran Singh*, Deputy Manager at M/s HIL Limited, from whose factory premises the goods were loaded in the truck in question for transportation, testified that, as per the outward register maintained by the factory, the said truck exited the factory premises on 16.05.2019 at about 05:00 PM. He further deposed that, as per the said record, the name of the driver was recorded as “*Ganesh*”.

5. *Prakash Chand* deposed that he was also a driver by profession and, on 17.05.2019, he was transporting goods for a common consignor and consignee. He further deposed that on 17.05.2019, the injured, while driving the truck in question, met with an accident when the vehicle crossed *Bulandshahar* and reached near *Narora, Uttar Pradesh*. He further deposed that, upon receiving such information, he reached the spot and found the vehicle in an accidental condition, with its cabin crushed. He stated that by the time he reached, the injured had already been taken out of the vehicle and was being shifted into an ambulance.

6. As noted above, none of the witnesses were subjected to cross examination by the employer and were cross examined only by the insurance company. In the aforesaid background, learned Commissioner



framed the following issues:

“I. Whether their existed employee-employer relationship between the injured Sh. Ganesh Singh Karki and the respondent if so?

II. Whether the accident to disablement of the claimant has occurred in the course and his employment under the respondent and if so?

III. Whether the claimant Sh. Ganesh Singh Karki is entitled to claim injury compensation under EC Act, 1923 and if so what amount is he entitled?

IV. Whether death of the insured had occurred prior to the accident and the insurance company is still liable for the compensation?

V. Any other relief?”

7. All the issues were answered in favour of the injured, and the insurance company was directed to pay the compensation.

8. Learned counsel for the appellant questions the grant of compensation by denying the appellant's liability to pay the same. It is contended that the truck in question did not possess a valid fitness certificate. Further, the Tribunal failed to take into account the deposition of Mr. *Narendra Singh*, Investigator. It is further contended that there is no FIR on record to establish the factum of the accident having taken place on 17.05.2019. He also contended that the employer-employee relationship was not established.

9. Insofar as the first contention is concerned, it is noted that in the written statement only general and vague averments were made on this aspect without furnishing any particulars. Learned counsel has placed reliance on the deposition of the investigator on the basis of a purported certificate stated to have been issued by the RTO, *Gurgaon*. It is pertinent to note that the certificate was not issued to the Investigator. Further, no witness was summoned from the Gurgaon authority to prove it. As the certificate was not proved in accordance with law by the issuing authority, it was thus, rightly not relied upon.



10. The next contention regarding the factum of the accident being not proved is also misplaced in light of the testimony of the injured and *Prakash Chand*, coupled with the medical records of the same date, which do not indicate any contrary history.

11. Insofar as the contention relating to employer-employee relationship is concerned, as noted hereinabove, the employer has not stepped into the witness box. Even otherwise, as held in *North East Karnataka Road Transport Corpn. v. Sujatha*¹, the issues relating to the occurrence of the accident, existence of employer-employee relationship, and other allied aspects are essentially questions of fact required to be proved on the basis of evidence. The findings recorded thereon are findings of fact and, in an appeal under Section 30 of the Employee's Compensation Act, 1923, the jurisdiction of this Court is confined only to substantial questions of law. Such findings of fact cannot be interfered with unless they are shown to be perverse, arbitrary, or based on no evidence.

12. This Court, keeping in view the limited scope of interference under Section 30 of the Employee's Compensation Act, 1923, finds no infirmity in the impugned order. The challenge thereto is accordingly rejected.

13. As a necessary sequitur, the compensation amount is directed to be released to the claimant immediately.

14. The appeal along with pending application, if any, stands dismissed.

15. The date already fixed i.e. 08.07.2026 stands cancelled.

MANOJ KUMAR OHRI, J

APRIL 6, 2026/ab

¹ (2019) 11 SCC 514