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

\# **CNR No. DLHC010234922023**

\+ FAO 143/2023 &&CM APPL. 31704/2023
CM APPL. 31705/2023

M/S VARUN BEVERAGES LTD. .....Appellant

Through: Mr. Puneet Bajaj, Advocate
(Through VC)

versus

SMT. MALTI DEVI & ORS. .....Respondent

Through: Ld. counsel for the respondent
(Appearance not given) Through VC

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

O R D E R

% 01.10.2026

1. By way of the present appeal filed under Section 30 of the Employees' Compensation Act, 1923 (hereinafter referred to as the "Act"), the appellant seeks to assail the order dated 30.01.2023 passed by the learned Commissioner, Employees' Compensation Act, North-West District, *Delhi*, whereby the claim application filed by the respondents was allowed and compensation was awarded in respect of the death of late Sh. P*awan Kumar Akela* (hereinafter referred to as the "deceased").

2. Briefly stated, the claim petition came to be filed by the respondents/claimants alleging that the deceased was employed as a cook-cum-helper and was posted at the guest house of the appellant at *Pathankot*. It was the case of the respondents that the deceased was required to perform duties in connection with his employment. On 27.02.2019, he left the guest house at about 5:00 P.M. and did not return thereafter. A missing complaint

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regarding his missing was lodged on 28.02.2019 by Sh. *Narindra Kumar*, an employee of the appellant posted in its HR Department. The dead body of the deceased was subsequently recovered on 22.03.2019 near *Pultun* Bridge at Village *Farida Nagar*, District *Pathankot*. The post-mortem examination was conducted on 25.03.2019, wherein no external mark of injury was found on the body and the cause of death was recorded as drowning.

3. The respondents thereafter approached the learned Commissioner seeking compensation on the ground that the deceased had died out of and during the course of his employment. The appellant, on the other hand, disputed the employer-employee relationship and contended that the deceased was employed through M/s *Mohinder Sharma*, Contractor, who had deployed him at the site of the appellant. It was also contended that the deceased had left the guest house without informing anyone and had not left the premises in connection with any official or outside duty.

4. The learned Commissioner, upon consideration of the material placed on record, allowed the claim and awarded compensation to the respondents/claimants. The appellant has consequently preferred the present appeal.

5. Before this Court, learned counsel for the appellant has primarily contended that the learned Commissioner failed to appreciate that the post-mortem report records the cause of death as drowning. It is submitted that the deceased had left the guest house without informing anyone and his dead body was recovered from near the river after about 23 days and, therefore, the death could not have been attributed to any incident arising out of and in the course of his employment. It is further contended that the deceased was not directly employed by the appellant, but had been engaged through M/s

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Mohinder Sharma, Contractor, who had deployed him at the appellant's site. It is thus submitted that the impugned order could not have fastened liability upon the appellant.

6. Learned counsel for the respondents, on the other hand, submitted that the deceased was working at the appellant's premises at *Pathankot* and had been posted at the guest house in connection with his employment. It is further submitted that the fact that the deceased was working at the said premises has not been seriously disputed and that the learned Commissioner, after considering the evidence and material placed before him, returned a finding that the deceased was working for the appellant and that his death at the place of his posting was not disputed.

7. Before proceeding further, a gainful reference may be made to the limited scope of interference under Section 30 of the Act. It is well settled that an appeal under Section 30 lies only on a substantial question of law and that the findings of fact recorded by the learned Commissioner are not to be interfered with unless the same are shown to be perverse or based on no evidence. In this regard, reference may be made to the decisions of the Supreme Court in "*North East Karnataka Road Transport Corporation v. Sujatha*"[1]and "*GollaRajanna&Ors. v. Divisional Manager &Anr*."[2].

8. Insofar as the first contention of the appellant is concerned, there is no dispute that the post-mortem report records the cause of death as drowning. However, the mere recording of drowning as the cause of death in the post-mortem report does not, by itself, answer the question which fell for consideration before the learned Commissioner, namely, whether the

[1](2019) 11 SCC 514
[2](2017) 1 SCC 45

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deceased was in the course of his employment when the incident occurred. Pertinently, on a perusal of the impugned order, this Court finds that there is no finding returned by the learned Commissioner that the deceased had died on account of drowning or that the death was caused by any particular incident in the river. The fact remains that the deceased had gone missing from the place where he was posted and his dead body was recovered only on 22.03.2019, after a period of about 23 days. It is not in dispute that thebody of the deceased was recoveredfrom nearthe place of his employment.

9. The appellant essentially seeks to draw a different inference from the circumstances surrounding the disappearance of the deceased and the fact that the dead body was subsequently recovered from near the river. Such an exercise would necessarily require re-appreciation of the evidence and the factual material which was already considered by the learned Commissioner. This Court, while exercising jurisdiction under Section 30 of the Act, is not sitting as a first appellate court to substitute its own appreciation of facts for that of the learned Commissioner. No perversity or absence of evidence has been demonstrated in the finding returned by the learned Commissioner.

10. The next contention of the appellant relates to the employer-employee relationship. The appellant has relied upon the plea that the deceased was employed through M/s *Mohinder Sharma*, Contractor, and had been deployed at the appellant's site. The said stand, however, does not take the matter any further. The contractor has not denied the deceased having been deployed at the place of employment. More importantly, the learned Commissioner, after appreciating the material on record, has returned a finding of fact that the deceased was working for the appellant and that his

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death at the place of his posting was not disputed. The appellant has not been able to point out any material which would render the said finding perverse or demonstrate that the finding was based on no evidence.

11. Once the learned Commissioner, upon consideration of the material before him, has returned a finding in favour of the respondents on these aspects, the same cannot be interfered with in an appeal under Section 30 merely because another view of the evidence may also be possible. The contention of the appellant, in substance, seeks a re-appreciation of the factual findings already returned by the learned Commissioner, which is beyond the limited scope of the present appeal.

12. Considering the aforesaid, this Court finds no perversity in the findings returned by the learned Commissioner. The findings recorded by the learned Commissioner being findings of fact, and there being no material to warrant interference with the same, the impugned order does not call for any interference.

13. The appeal, thus, being devoid of merit is, accordingly, dismissed.

14. The amount deposited by the appellant before the learned Commissioner pursuant to the impugned order, along with accrued interest, if any, shall be released to the respondents/claimants in accordance with law.

15. The pending application(s), if any, stand disposed of.

MANOJ KUMAR OHRI, J

OCTOBER 1, 2026
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