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

% Reserved on : 01.04.2026
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\+ **FAO 602/2016**

REGIONAL MANAGER, M/S. BAJAJ ALLIANZ GENERAL INS. CO. LTD. .....Appellant
Through: Mr Pradeep Gaur and Mr Amit Gaur with Ms Sweta Sinha, Advocates

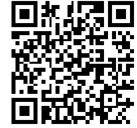
versus

SUNITA DEVI & ORS. .....Respondent
Through: Mr. R.K. Nain, Mr. Daksh Nain and Mr. Chandan Prajapati, counsels for respondent no.1

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT

1. The present appeal against the order dated 31.08.2016 passed by the learned Commissioner, Employee's Compensation Act, 1923, C-Block, Ground Floor, 5, *Shamnath Marg, Delhi*-110054, in Case No. WCD/61/NW/13/1764 titled '*Smt. Sunita Devi & ors. v. Sh. Kanhiya Lal & Ors.*', whereby the claim petition filed by respondent Nos. 1 and 2/claimants came to be allowed. The said petition was filed seeking compensation on account of the injuries sustained by one Sh. *Chandeshwar Ray*, who died in an accident stated to have arisen out of and during the course of his employment under respondent No. 3.



2. The learned Commissioner, vide impugned order directed the appellant/Insurance Company to deposit a sum of Rs.8,60,664/- towards compensation along with simple interest @ 12% per annum with effect from 26.04.2011 till realization, in favour of respondent Nos. 1 and 2/the claimants.

3. In the claim petition, it was claimed that *Chandeshwar Ray* was employed as a driver on vehicle bearing no. HR-55H-8581 i.e., truck owned by *Kanhiya Lal*/respondent no.3. The said truck met with an accident at about 7:30 PM on 26.03.2011 in which *Chandeshwar Ray* sustained injuries and subsequently succumbed to the same on 11.06.2011. At the relevant time, the truck was on an occupational trip carrying goods from *Rajasthan* and the accident occurred within the jurisdiction of P.S. *Sadar Dadri, District Bhiwani, Haryana*. It was claimed that the truck had collided with another truck coming from the opposite direction. The accident was reported and an FIR bearing FIR No.106/2011 was registered at *P.S. Sadar Dadri, District. Bhiwani, Haryana*. It was claimed that the truck was duly insured with the present appellant *vide* a valid and subsisting policy issued for a period from 26.10.2010 to 25.10.2011. The appellant had also charged additional premium under the provisions of Employee's Compensation Act, 1923 (hereafter referred to as 'EC Act').

4. It was claimed that at the time of the accident, the deceased was aged about 22 years and was drawing wages @ Rs.10,000/- per month along with other allowances.

5. In the claim proceedings, *Kanhiya Lal* appeared and admitted he was the owner of the truck; however, he denied that the deceased was employed under him. It was claimed that the deceased was never posted as driver on

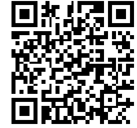
the said truck and it was rather one *Pappu Singh*, who was driving the said truck which met with an accident.

6. The mother of the deceased appeared and deposed that on occurrence of the accident, the helper of the truck took the injured to a nearby clinic, but the employer did not provide any assistance for the treatment of her son. The brother of the deceased was also examined and reiterated that the deceased was employed on the truck owned by *Kanhiya Lal* and had died on account of the injuries sustained in the accident dated 26.03.2011.

7. Before this Court, learned counsel for the appellant contends that the impugned judgment is not only perverse, but also liable to be set aside even within the limited scope of interference under Section 30 of the EC Act. It is contended that the impugned judgment failed to take note of the criminal case, which was instituted by the concerned police authorities, wherein it was *Pappu Singh*, who had faced trial. Lastly, it was contended that while forwarding the own damage claim, it was the driving license of *Pappu Singh*, which was enclosed. On the other hand, the driving license of the deceased was never placed on record.

8. Mr. *R K Nain*, learned counsel for the claimant, on the other hand, conceded that though no documentary evidence was available to establish the employment of the deceased however, at the same time, there was no material placed on record establishing employment of *Pappu Singh* either.

9. A perusal of the impugned judgment shows that the learned Commissioner had evaluated both the probabilities. The claimants relied upon the information furnished to the SHO, *P.S. Sadar Dadri, District Bhiwani, Haryana* regarding the admission of the deceased in hospital on 26.03.2011 at about 11:30 PM, the MLC of the deceased of the same date,



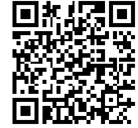
and the mechanical inspection report of the truck in question. The employer, on the other hand, relied upon the FIR and the criminal proceedings in which *Pappu Singh* was shown as the driver of the truck. Indisputably, no employment record or other documentary evidence was produced to conclusively establish the engagement either of the deceased or *Pappu Singh* as the driver of the truck.

10. In the aforenoted backdrop, where the occurrence of the accident itself stands admitted and the evidence led by the parties presents competing versions, the learned Commissioner was justified in examining the matter on the touchstone of preponderance of probabilities rather than proof beyond reasonable doubt.

11. A perusal of the judgment passed in the criminal proceedings initiated against *Pappu Singh* as well as the driver of the other truck reveals that the prosecution case was based upon the statements of purported eyewitnesses. However, the said proceedings ultimately did not result in any conclusive finding, as the witnesses failed to support the prosecution case and stated that they had reached the spot only after the accident had occurred. Significantly, none of the witnesses claimed to have seen *Pappu Singh* at the spot.

12. It is well settled that proceedings under the EC Act are beneficial in nature and strict rules of evidence are not required to be applied in the same manner as in criminal proceedings. The Commissioner, being the final authority on facts, is entitled to appreciate the evidence holistically and draw reasonable inferences from the surrounding circumstances placed on record.

13. At this stage, this Court also takes note of the decision of the Supreme Court in *<u>Macainnon Mackenzie and Co. (P) Ltd. vs. Ibrahim Mahmmed</u>*



Issak[1], wherein it was observed that the Commissioner may draw an inference from the proved facts so long as it is a legitimate inference. wherein it was observed that, in proceedings under the EC Act, a workman is not necessarily required to prove his case by direct evidence and that the Commissioner may legitimately draw inferences from the proved facts. The relevant observations are as under:

> *"6. In the case of death caused by accident the burden of proof rests upon the workman to prove that the accident arose out of employment as well as in the course of employment. But this does not mean that a workman who comes to court for relief must necessarily prove: it by direct evidence. Although the onus of proving that the injury by accident arose both out of and in the course of employment rests upon the applicant these essentials may be inferred when the facts proved justify the inference. On the one hand the Commissioner must not surmise, conjecture or guess; on the other hand, he may draw an inference from the proved facts so long as it is a legitimate inference. It is of course impossible to. lay down any rule as to the degree of (1) [1917] A.C. 352.*
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> *proof which is sufficient to justify an inference being drawn, but' the evidence must be such as would induce a reasonable man to draw it. Lord Birkenhead L.C. in Lancaster v. Blackwell Colliery Co. Ltd., (1) observed:*
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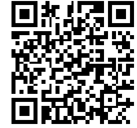
> > *"If the facts which are proved give rise to conflicting inferences of equal degrees of probability so that the choice between them is a mere matter of conjecture, then, of course, the applicant fails to prove his case because it is plain that the onus in these matters is upon the applicant. But where the known facts are not equally consistent, where there is ground for comparing and balancing probabilities as to their respective value, and where a reasonable man might hold that the more probable conclusion is that for which the applicant contends, then the Arbitrator is justified in drawing an inference in his favour."*

14. Recently, in North East Karnataka Road Transport Corporation v. Sujatha[2], the Supreme Court has held that the findings of fact recorded by

[1] (1969) 2 SCC 607
[2] (2019) 11 SCC 514



the learned Commissioner, unless perverse, ought not to have been likely interfered with.

15. This Court, on consideration of material placed on record, does not find any infirmity or perversity in the impugned order.

16. The appeal fails and the same is, accordingly, dismissed.

(MANOJ KUMAR OHRI)
JUDGE

MAY 25, 2026
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