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

% Date of Decision: 27.03.2026

\+ **FAO 389/2016 & CM APPL. 29552/2016**

M/S AMBALA PATIALA TRANSPORT CO .....Appellant

Through: Ms.Ekta Choudhary, Ms.Rushali Sikand and Mr.Ankur Anand, Advocates

versus

PRATAP SINGH .....Respondent

Through: Mr.R.K.Nain with Mr.Chandan Prajapati, Mr.Daksh Nain and Mr.Karan Sharma, Advocates

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT (ORAL)

1. The appellant, being the employer, has preferred the present appeal assailing the impugned award dated 21.05.2015 passed by the learned Commissioner under Employee's Compensation Act, 1923 (hereinafter referred to as the 'EC Act'), whereby the claim for death compensation was allowed. The employer was directed to pay a sum of Rs.3,94,120/- along with 12% simple interest from the date of the accident till its realization. The impugned award came to passed in the context of claim seeking the death compensation by the parents of one, *Balbir Singh* (hereafter referred to as the 'deceased').

2. It was claimed that the deceased was employed as a driver on the vehicle bearing No. HR-55-2008, owned by the employer, and that he died out of and during the course of his employment. It was averred that the

deceased, on the instructions of his employer, who was in the transport business, undertook an occupational trip from *Delhi* to *Kolkata* after getting the vehicle loaded with cycle parts. He was the only driver on the truck. When he reached *Aligarh*, the engine of the said vehicle broke down. The deceased, who was already under work pressure, fell ill. The vehicle remained parked on the roadside, and despite all efforts, the engine could not be repaired. The employer, however, neither bothered nor came to the rescue of the deceased. The deceased remained lying in the vehicle for about 13 days, and it was a mechanic who informed about the ill health to the brother of the deceased i.e., *Jeet Singh*, who was also employed as a driver, *albeit* with a different owner, and was on the way from *Delhi* to *Kolkata*. He reached the spot, took the deceased, and admitted to *Burdwan* Medical College & Hospital for treatment on 05.03.2006 where he expired during the treatment on 20.03.2006. The death was attributed to the employment. It was further claimed that the last drawn wages of the deceased was Rs.4,500/- per month, along with Rs.100/- per day as food allowance. The deceased was aged about 35 years.

3. Apparently, the first claim application filed by the claimant came to be dismissed on 16.09.2009. The order records that the employer had claimed that the vehicle in question did not belong to him and as such claim was dismissed with liberty to file the same on getting details of the real owner of the vehicle. The second claim application was thereafter filed on the same set of facts. however, this time the truck number was not mentioned. Further, the claim application was accompanied by the medical documents of the *Burdwan* Medical College & Hospital indicating the date of admission as 05.03.2006 as well as the death certificate dated 20.3.2006,

where cause of death has been found as 'encephalopathy'.

4. Learned counsel for the appellant contended that the employer not only denied the ownership of the vehicle but also denied that the deceased was ever employed as a driver with it. It is also contended that the claim that the deceased remained lying 13 days in truck at *Aligarh*, and instead of taking him to a nearby hospital, was taken to *Burdwan* Medical College and Hospital in *West Bengal*, is improbable and ought not to have been believed by the learned Commissioner.

5. Mr Chandan Prajapati, learned counsel appearing for the respondent/claimant, on the other hand, contends that the claimants being the parents of the deceased, were not aware of the complete registration number of the truck in question and, therefore, could provide only an incomplete number. Further, the claimants have examined the brother of the deceased, the mechanic who had come to repair the vehicle, as well as another driver who had seen the deceased with the truck.

6. A perusal of the written statement as well as the evidence filed on its behalf would show that employer has admitted to be in the transport business on *Delhi-Kolkata* circuit. The employer further claimed that it initially purchased two trucks, however, the same was sold within one year. At the time of incident in question, the employer was not owning any trucks, and its business was being carried by hiring trucks from third parties. It was also claimed that the deceased was never employed with them.

7. In this view of the matter, mere denial of the ownership of the truck in question would not absolve the employer from its liability. Insofar as the deceased being employed with the employer is concerned, the claimants have examined three witnesses. The first being *Jeet Singh*, brother of the

deceased who stated that, like the deceased, he was also a driver. The deceased was employed with M/s *Ambala Patiala* Transport Co., which was owned by *Raj Babu*. Under the instructions of the employer, the deceased was driving a loaded truck to *Kolkata* when the vehicle broke down near *Aligarh*. On coming to know of the serious condition of his brother, he reached the spot and got the deceased admitted in *Burdwan* Medical College and Hospital. In cross-examination, he clarified that he was informed by one, *Lalit Kumar Khanna*. He also clarified that, at that time, his brother was unconscious and had suffered mosquito bites. The second witness examined being *Lalit Kumar Khanna*, the mechanic who had come to repair the vehicle admitted that he had informed the brother of the deceased about his medical condition. The third witness i.e., *Ramesh Kumar* stated that he was employed as a second driver on a truck belonging to one *Parvinder Singh*. He further stated that the deceased was employed with the employer on the truck in question and under the directions from his employer, the deceased had undertaken occupational trip from *Delhi* to *Kolkata*. In cross-examination, he categorically stated that he had also reached the spot and saw the condition of the deceased and had accompanied the brother of the deceased.

8. In light of the aforesaid evidence, the learned Commissioner returned a finding that the witnesses *Lalit Kumar Khanna* and *Ramesh Kumar* were independent persons, and their testimony along with the medical certificate, post-mortem report of the deceased proved that the deceased had died during the course of his employment. The cause of death was also found to be relatable to occupational hazard. In '*Param Pal Singh through Father vs.*

National Insurance Company and Another'[1], the Supreme Court while interpreting the expression 'personal injury' under Section 3 of the Workmen's Compensation Act, 1923 held that there has to be causal connection between the employment and death. Relevant extract is as under:

> *"29. Applying the various principles laid down in the above decisions to the facts of this case, we can validly conclude that there was causal connection to the death of the deceased with that of his employment as a truck driver. We cannot lose sight of the fact that a 45-year-old driver meets with his unexpected death, may be due to heart failure while driving the vehicle from Delhi to a distant place called Nimiaghat near Jharkhand which is about 1152 km away from Delhi, would have definitely undergone grave strain and stress due to such long distance driving. The deceased being a professional heavy vehicle driver when undertakes the job of such driving as his regular avocation it can be safely held that such constant driving of heavy vehicle, being dependent solely upon his physical and mental resources and endurance, there was every reason to assume that the vocation of driving was a material contributory factor if not the sole cause that accelerated his unexpected death to occur which in all fairness should be held to be an untoward mishap in his lifespan. Such an "untoward mishap" can therefore be reasonably described as an "accident" as having been caused solely attributable to the nature of employment indulged in with his employer which was in the course of such employer's trade or business."*

9. The Supreme Court, in '*Mackinnon Mackenzie & Co. (P) Ltd. v. Ibrahim Mahmmed Issak*'[2], held that for a claim to fall within the ambit of the Act, the injury must arise both out of and in the course of employment. While "in the course of employment" mean in the course of the work which the workman is employed to do and which is incidental to it. The words "arising out of employment" are understood to mean that, during the course of employment, the injury has resulted from some risk incidental to the duties of the service, which, unless engaged in such duty owing to the

[1] (2013) 3 SCC 409
[2] (1969) 2 SCC 607

master, it is reasonable to believe the workman would not otherwise have suffered. In other words, there must be a causal relationship between the accident and the employment. To put it differently, if the accident had occurred on account of a risk which is an incident of the employment, the claim for consideration must succeed, unless, of course, the workman has exposed himself to an added peril by his own imprudent act. Although the burden lies on the claimant, the nexus may be inferred from proved facts, provided it is not based on mere conjecture.

10. In the present case, the evidence on record establishes that the deceased had undertaken a work-related journey from Delhi to Kolkata as a driver and fell ill when the vehicle broke down en route, thereby satisfying the requirement that the incident occurred in the course of employment. Further, the material on record, including the testimony of witnesses and the medical documents, indicates that the deceased remained unattended during the course of such employment and his condition deteriorated due to factors incidental thereto, thereby establishing a causal nexus between the employment and the death. The evidence on record as well as the post-mortem report sufficiently establishes such connection, which this Court has no doubt, took place 'arising out of and in the course of employment'.

11. This Court is conscious of the fact that the present is a challenge under Section 30 of the EC Act, and in light of the aforesaid decisions, the findings of fact recorded by the employer, the impugned order requires no interference. Accordingly, the challenge fails.

12. At the filing of the appeal, the employer was directed to deposit 50% of the awarded amount, which should be released to the claimant. The employer is directed to also pay remaining amount within two weeks from

today.

13. The appeal is dismissed in the aforesaid terms.

14. The pending application shall also stand closed.

MANOJ KUMAR OHRI
(JUDGE)

MARCH 27, 2026/*pmc*