



2026:DHC:1180



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

% Date of Decision: 30.01.2026

+ **FAO No. 306/2019, CM APPLs. 34677-78/2019**

BANWARI LAL & ANR.Appellants
Through: Mr. Anirudh Dusaj, Advocate.

versus

RAJ KUMAR & ORS.Respondents
Through: Mr. Manish Tiwari, Advocate.

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT (ORAL)

1. The present appeal is directed against the order dated 14.03.2019 passed by the learned Commissioner Employee's Compensation, Labour Department, Govt. of NCT of Delhi, in CEC/SD/D/51-52/2017/307-310.

Vide the aforesaid order, the learned Commissioner held the claimants (respondent nos. 1 & 2 herein) to be entitled to compensation as well as penalty and directed appellant no. 2 herein, i.e., the Delhi Electricity Regulatory Commission (hereinafter "DERC") to pay the same. It was further held that the appellant/DERC was entitled to recover the said amounts from the deceased employee's immediate employers, i.e., respondent no. 3 (*Paramjeet Singh*) and his proprietorship firm, i.e., respondent no. 4 (M/s. V. R. Refrigeration).

2. In the claim petition filed by respondent nos. 1 & 2, the parents of the deceased *Arun Kumar*, it was averred that respondent no. 3/*Paramjeet Singh*, had approached the deceased in March 2011 and offered him work



2026:DHC:1180



with his proprietorship, respondent no. 4 (M/s. V. R. Refrigeration). The deceased agreed to work with the said firm on 09.03.2011 at a monthly wage of Rs.3,000/-. It was claimed that, on the direction of respondent no. 3, the deceased worked wherever instructed and his salary was increased every April by a sum of Rs.1,500/-. Respondent no. 4 was engaged for AC maintenance by DERC. On the asking of respondent no. 3, the deceased as well as a mechanic, *Sunil*, went to the office of DERC on 22.06.2014 to service an AC unit on the terrace. For the said work, respondent no. 3 had provided the deceased an old water motor. The deceased had protested against using the same as it did not have any earthing wires, but to no avail, and as a result, the deceased got electrocuted and suffered fatal injuries. He was rushed to *Pt. Madan Mohan Malaviya Hospital*, where he was declared brought dead. It was claimed that at the time of the said incident, the deceased was drawing salary @ Rs.7,500/- per month.

3. On summons being issued by the Trial Court, respondent no. 3/*Paramjeet Singh* appeared for himself as well as his firm/respondent no. 4, on 04.07.2017. DERC was also represented by counsel on the said date. However, none appeared on behalf of respondent nos. 3 & 4 on 30.08.2017 and 18.09.2017. When the matter was listed on 01.02.2018, which was the final opportunity given to respondent nos. 3 & 4, none appeared on their behalf and they were proceeded *ex parte*.

4. The claimants had also impleaded one *Banwari Lal*, an Assistant Lineman of DERC, as a respondent. Written statements in response to the claim petition were filed on behalf of DERC as well as *Banwari Lal*. In the said response, it was claimed that the incident in which the deceased had suffered fatal injuries was not attributable to DERC. Liability was denied on



the ground that the incident in question had been caused by the old water motor belonging to respondent no. 3/*Paramjeet Singh*, and it was further averred that the deceased himself had been negligent in operating the motor with his bare hands.

5. The present appeal was filed by *Banwari Lal* as well as DERC. However, later on, *Banwari Lal* was deleted from the array of parties.

6. Learned counsel for the DERC has assailed the impugned order by contending that the learned Commissioner failed to appreciate the submissions raised in the written statements, reiterating that the liability ought to have been fixed on the immediate employer, i.e., *Paramjeet Singh* and his firm. A perusal of the record of the case reveals that the parties led evidence before the learned Commissioner and that the claimants examined themselves.

7. At this stage, it is pertinent to state the law insofar as the scope of interference in an appeal against an order passed by a Commissioner under the Employee's Compensation Act, 1923 (hereinafter "the EC Act") is concerned. The *proviso* to Section 30 of the EC Act provides that no appeal would lie against the order of a Commissioner unless it involves a substantial question of law. A gainful reference in this regard may also be made to the decision in *Golla Rajanna & Anr. Vs. Divisional Manager & Anr.*¹:

"10. Under the scheme of the Act, the Workmen's Compensation Commissioner is the last authority on facts. Parliament has thought it fit to restrict the scope of the appeal only to substantial questions of law, being a welfare legislation. Unfortunately, the High Court has missed this crucial question of limited jurisdiction and has ventured to reappraise the evidence and recorded its own findings on percentage of disability for

¹ (2017) 1 SCC 45



which also there is no basis. The whole exercise made by the High Court is not within the competence of the High Court under Section 30 of the Act.”

8. In the present case, the employer-employee relationship between the deceased and the firm owned by *Paramjeet Singh* is not denied. It has also not been denied that the DERC had given a maintenance contract to the said firm. The only issue arising for consideration is whether the learned Commissioner erred by directing the principal employer to pay the compensation and penalty amounts, albeit with a right to recover the same from respondent nos. 3 & 4, i.e., *Paramjeet Singh* and his firm. It is pertinent to note that the order impugned in the present proceedings has not been assailed by the immediate employer of the deceased.

9. Now, the statutory scheme is clear, insofar as Section 12 of the EC Act empowers the claimant to recover compensation from either the immediate employer or from the principal employer. The said provision reads as under:

“12. Contracting.—(1) Where any person (hereinafter in this section referred to as the principal) in the course of or for the purposes of his trade or business contracts with any other person (hereinafter in this section referred to as the contractor) for the execution by or under the contractor of the whole or any part of any work which is ordinarily part of the trade or business of the principal, the principal shall be liable to pay to any employee employed in the execution of the work any compensation which he would have been liable to pay if that employee had been immediately employed by him; and where compensation is claimed from the principal, this Act shall apply as if references to the principal were substituted for references to the employer except that the amount of compensation shall be calculated with reference to the wages of the employee under the employer by whom he is immediately employed.

(2) Where the principal is liable to pay compensation under this section, he shall be entitled to be indemnified by the contractor, or any other person, from whom the employee could have recovered compensation and where a contractor who is himself a principal is liable to pay compensation or to indemnify a principal under this section he shall



be entitled to be indemnified by any person standing to him in the relation of a contractor from whom the employee could have recovered compensation and all questions as to the right to and the amount of any such indemnity shall, in default of agreement, be settled by the Commissioner.

(3) Nothing in this section shall be construed as preventing a employee from recovering compensation from the contractor instead of the principal.

(4) This section shall not apply in any case where the accident occurred elsewhere than on, in or about the premises on which the principal has undertaken or usually undertakes, as the case may be, to execute the work or which are otherwise under his control or management.”

10. It is also not in dispute that, on the directions of the immediate employer, the deceased had gone to the work site owned by DERC to carry out the concerned work in pursuance of the maintenance contract granted by DERC to the said firm.

11. From the above, it is clear that the incident had occurred during and within the course of employment of the deceased with the said firm.

12. At this stage, the Court takes note of the decision rendered by the Coordinate Bench of this Court in Shri Krishan Vs. Jasoda Devi & Ors.². It was clarified that Section 12 of the EC Act is a welfare provision designed to prevent employers from evading liability by delegating work to contractors. The Court held that the terms “trade” or “business” must be interpreted broadly to include any task or undertaking that engages time and labour, rather than being restricted to commercial profit-making. Consequently, Section 12 was held to be an enabling provision that creates a “deemed employer-employee relationship” and allows claimant(s) to seek compensation from the immediate employer or from the principal employer who had employed such immediate employer, ensuring a speedy remedy and



2026:DHC:1180



protection of employee interests.

13. The position of law on the said subject is well settled and, as stated before, no other substantial question of law has arisen for consideration in the present appeal. Even otherwise, a reasoned order has been passed by the learned Commissioner, and I find no ground to interfere with the same.

14. Insofar as the amount of compensation awarded or penalty imposed is concerned, it is worthwhile to mention that the appellant has failed to justify the delay in non-payment of death compensation. It is also relevant to note that the appellant has been granted liberty to recover the compensation, the penalty amount, as well as the accrued interest thereon, from the immediate employer of the deceased.

15. Accordingly, the present appeal is dismissed.

16. The appeal, along with pending applications, is disposed of in the aforesaid terms.

MANOJ KUMAR OHRI
(JUDGE)

JANUARY 30, 2026

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² 2017 SCC OnLine Del 11137