



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

% Date of Decision: 30.03.2026

+ **FAO 598/2016**

**BHARTI AXA GENERAL INSURANCE COMPANY LTD**

.....Appellant

Through: Mr. Navneet Kumar along with  
Mr. Harsh Sharan, Advocates

versus

**HEERA DEVI & ANR**

.....Respondents

Through: Mr. R.K Nain, Ms. Pratima N. Lakra and  
Ms. Anamika, Advocates for R-1 & 2  
Ms. Avni Singh, Panel Counsel with Mr. Vaibhav  
Sharma, Advocate for GNCTD

**CORAM:**

**HON'BLE MR. JUSTICE MANOJ KUMAR OHRI**

**JUDGMENT (ORAL)**

**CM APPL. 14680/2021 (for release of 50% of the awarded amount),  
CM APPL. 65655/2024 (for considering and disposing of CM APPL.  
14680/2021)**

1. By way of the present applications, the applicant/ respondent No.1 and 2 seek release of 50% of the awarded amount deposited before the Commissioner, Employees' Compensation.
2. Since the appeal has been finally heard at length, the applications have now become infructuous.
3. Accordingly, the applications are disposed of in the above terms.



**FAO 598/2016 & CM APPL. 47243/2016 (Stay)**

1. The present appeal has been filed under Section 30 of the Employees' Compensation Act, 1923 (hereinafter referred to as the "Act"), assailing the impugned order dated 13.06.2016, passed by the learned Commissioner, Employees' Compensation, Pusa Complex, Delhi in Case No. WCD/184/NW/13/3803, whereby, the learned Commissioner allowed the claim application of the respondents herein, and fastened the liability upon the appellant/ insurance company.

2. The claim application came to be filed by *Smt. Heera Devi* and *Smt. Triloki Devi*, being the widow and mother respectively, of *Sh. Madan Singh* (hereinafter referred to as the "deceased") claiming that the deceased was employed as a driver with *Sh. Devinder Singh*, who was the respondent No. 1 in the claim application, and had sustained injuries in an accident on 13.01.2012 while driving the insured vehicle in the course of employment. It was stated that the deceased was initially treated at a hospital near the place of accident and was thereafter admitted at *Lok Nayak Hospital* from 19.01.2012 to 06.02.2012, where injuries to the spinal region, including involvement of the D9 vertebra, were recorded. He was subsequently treated at *Sir Ganga Ram Hospital*, and thereafter taken to his native place, where he remained incapacitated, requiring assistance including use of a wheelchair, and ultimately expired on 03.09.2012. It is noted that *Smt. Heera Devi* has since remarried, and is no longer pursuing the claim, and the claim now survives only in respect of *Smt. Triloki Devi*, the mother of the deceased.



3. Insofar as the relationship of employer and employee is concerned, the case of the claimants, that the deceased was employed as a driver with respondent No.1 therein, finds support from the material placed on record, including the accident documents and particularly the investigation report placed on record. The respondent No.1/employer, despite service, chose not to appear and was proceeded *ex parte*. In such circumstances, the version of the claimants remained unrebutted, and the learned Commissioner cannot be faulted for accepting the same on the basis of the available material.

4. Learned Commissioner, upon appreciation of the material placed on record, has returned a finding that the accident in question occurred during the course of employment, and that the deceased had sustained injuries therein. The challenge in the present appeal is essentially premised on the submission that there was no material to establish a causal nexus between the injuries and the death of the employee.

5. The learned Commissioner has, in fact, noticed the absence of cogent material establishing a direct nexus between the injuries sustained in the accident and the eventual death of the employee. The said finding, however, does not defeat the claim, insofar as it relates to compensation for the injuries sustained during the lifetime of the employee. The entitlement, therefore, needs to be examined on the basis of the nature of injuries suffered and their effect on the earning capacity of the employee during his lifetime.

6. The contention of the appellant, that in the absence of a formal disability certificate or examination of a medical expert, no finding with



respect to loss of earning capacity could have been returned, does not merit acceptance. The absence of a disability certificate, though a relevant factor, is not by itself determinative, particularly where the nature of injuries and surrounding circumstances, even if not supported by formal medical certification, justify an inference regarding functional disability. The learned Commissioner, being the fact-finding authority, is entitled to draw such inference on the basis of the material on record.

7. The material placed on record indicates that the deceased had suffered spinal injuries, including involvement of the vertebral column, and had undergone treatment for the same. The record further reflects that the injuries had affected his mobility and functional capacity, and documents placed on record, including those relating to provision of a wheelchair, were relied upon by the learned Commissioner to infer that the deceased was no longer in a position to perform his duties as a driver. It also emerges from the material, including the investigation report, that the deceased was unable to recover from the injuries and remained incapacitated prior to his death. On such appreciation, the learned Commissioner concluded that the loss of earning capacity, *qua* the work of driving, was total. The inference so drawn cannot be said to be without basis.

8. The learned Commissioner has also relied upon the decision of this Court in “*New India Assurance Co. Ltd. v. Sushila<sup>1</sup>*”, to hold that the right to compensation stands crystallized on the date of the accident, and forms part of the estate of the employee. Consequently, even in the absence of proof of causal nexus between the injuries and death, the legal heirs would be entitled



to pursue the claim to the extent it relates to compensation for the injuries sustained.

9. In the present case, once it stood established that the employee had sustained injuries arising out of and in the course of employment and that such injuries resulted in loss of earning capacity, the entitlement to compensation stood accrued. Death need not be a direct result of the injury. even if it has contributed to accelerate the death, it is enough for the case to fall within the ambit of Section 3 of the Act (Ref:“*Kalavati Sakharam Ingular vs. Mahindra Ugine Steel Co. Ltd.*”<sup>2</sup>). Therefore, the subsequent demise of the employee, in the absence of proof of causal connection, would not defeat such accrued right.

10. The findings recorded by the learned Commissioner, insofar as they pertain to the occurrence of the accident, nature of injuries, the employer-employee relationship and the resultant loss of earning capacity, are findings of fact based on appreciation of the material on record. The same do not suffer from perversity nor are they shown to be based on no evidence so as to warrant interference.

11. The submissions advanced on behalf of the appellant essentially seek a re-appreciation of evidence with regard to the nature of injuries and the conclusions drawn therefrom. Such an exercise is impermissible in an appeal under Section 30 of the Act.

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<sup>1</sup> 2009 SCC OnLine Del 2904

<sup>2</sup> (1993) 3 LLJ 768 (Bom)



12. The scope of interference in an appeal under Section 30 of the Act is confined to substantial questions of law. The Hon'ble Supreme Court in "*North East Karnataka Road Transport Corporation v. Sujatha*<sup>3</sup>" has held that the High Court cannot re-appreciate evidence or interfere with findings of fact recorded by the Commissioner unless the same are perverse or based on no evidence. In the present case, no such substantial question of law arises for consideration.

13. In view of the aforesaid, this Court finds no infirmity in the approach adopted by the learned Commissioner in awarding compensation on account of the injuries sustained by the employee and the consequent loss of earning capacity.

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

**(MANOJ KUMAR OHRI)**  
**JUDGE**

**MARCH 30, 2026**

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<sup>3</sup> (2019) 11 SCC 514