



2026:DHC:8618



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

% Reserved on : 13.08.2026
Pronounced on : 30.09.2026
Uploaded on : 01.10.2026

CNR No. DLHC010350972019

+ **FAO 349/2019**

NILAM & ORS

.....Appellants

Through: Mr. S. N. Parashar,
Mr. Palvinder Singh, Mr. S. W.
Noman, and Mr. R. Tyagi,
Advocates

versus

INDERJEET YADAV & ANR

.....Respondents

Through: Mr. Sameer Nandwani,
Advocate for Respondent No.2

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT

1. The present appeal has been instituted by the appellants/claimants against the impugned order dated 30.10.2018 passed by the learned Commissioner, Employee's Compensation (District – South-West), Labour Department, Government of NCT of Delhi in Case No. CEC/D/14/SWD/2017/573, whereby the claim application filed in respect of the death of one *Sh. Niranjan* came to be dismissed.

2. In the claim application, it was stated that at the time of his death, *Sh. Niranjan* (hereinafter the “deceased”) was employed as a



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Driver with respondent no. 1, driving a truck bearing registration no. MH-14BJ-2842 owned by the said respondent, at last drawn wages of Rs.10,000/- per month. On 18.11.2016, the deceased was going in the said vehicle from *Haridwar* to *Pune* and when the vehicle reached near *Barout, District-Baghpatt*, his dead body was discovered lying inside the said vehicle. It was claimed that he had been murdered while performing his duty and during the course of employment, for which an FIR bearing no. 988/2016 was also registered at P.S. *Baraut* on 19.11.2016.

3. Respondent no. 1 appeared before the learned Commissioner and filed his written statement, thereby denying the existence of an employer-employee relationship between him and the deceased. It was contended that the deceased was never employed with respondent no. 1 and that another person named *Surjit* worked with him as Driver. It was further averred that the death had occurred on account of some personal enmity of the deceased, as no vehicular accident had occurred during the course of driving and no damage was caused to the vehicle in question.

4. The insurance company/respondent no. 2 also filed its written statement disputing its liability, *inter alia* contending that the claimants had not proved that the deceased was employed by respondent no. 1 and that no valid driving licence of the deceased had been placed on record.

5. Before this Court, learned counsel for the appellants contended that as per the records of the concerned FIR placed before the learned Commissioner, the body of the deceased was found inside the truck in



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question, whose ownership has not been denied by respondent no. 1. Further, the factum of the said truck being duly insured under a valid and subsisting policy was also not disputed.

6. Respondent no. 1, despite being served, remained absent.

7. Learned counsel appearing for respondent no. 2/insurance company submitted that no compensation is liable to be paid for a case of murder *simpliciter*. It was further submitted that the initial onus to establish the employer-employee relationship between respondent no. 1 and the deceased rested upon the appellants/claimants, which they failed to discharge, and that the learned Commissioner rightly drew an adverse inference against the claimants for withholding the driving licence of the deceased.

8. I have heard the learned counsels for the parties and examined the record.

9. Coming first to the scope of Section 30 of the EC Act, it is well settled that the scope of an appeal under Section 30 is limited. Under the scheme of the EC Act, the Commissioner is the final authority on questions of fact. Being a welfare legislation, Parliament has restricted the scope of an appeal to cases involving a substantial question of law (Ref: Golla Rajanna & Ors. Vs. Divisional Manager & Anr.¹).

10. There can be no quarrel with the proposition that the primary burden of establishing the existence of an employer-employee relationship lies on the person who asserts it. In the present case, apart from the self-serving affidavit of the wife of the deceased, i.e.

¹ (2017) 1 SCC 45



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appellant no. 1/CW-1, no evidence whatsoever has been placed on record to establish that the deceased was engaged as a driver by respondent no. 1.

11. Notably, respondent no. 1 filed his written statement before the learned Commissioner denying the employer-employee relationship but did not lead any evidence. While an adverse presumption can be drawn against a party that fails to enter the witness box, the learned Commissioner rightly noted in the impugned order that such an inference cannot take away the claimants' initial burden of proving that the deceased was indeed employed by respondent no. 1.

12. Furthermore, a perusal of the cross-examination of appellant no. 1/CW-1 reveals that she was unaware of the location of her husband's workplace and could not name the authority that had issued his driving licence. While appellant no. 1 claimed that the said licence was at her home, the same was never brought on record before the learned Commissioner.

13. The learned Commissioner also took note of the discrepancies surrounding the initiation of criminal proceedings. Although the record reflected that the concerned FIR bearing no. 988/2016 was registered on the complaint of appellant no. 1/CW-1 on 19.11.2016, appellant no. 1 expressly denied having lodged any report with the police, deposing instead that her in-laws had lodged the FIR two to three days after the incident.

14. The mere circumstance that the dead body of the deceased was discovered inside respondent no. 1's vehicle cannot, by itself in the facts of the present case, lead to a presumption that he was discharging



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duties in the course of employment with respondent no. 1. In the absence of any substantial evidence establishing the employer-employee relationship, the secondary issue as to whether the incident was an accidental murder or a murder *simpliciter* does not survive for determination.

15. In view of the above, this Court finds no perversity or patent illegality in the findings recorded by the learned Commissioner.

16. Accordingly, the present appeal is dismissed.

(MANOJ KUMAR OHRI)
JUDGE

SEPTEMBER 30, 2026

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