IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.7485 of 2015 (O&M)

UNION OF INDIA **…Appellant**
Vs
HARBANS LAL AND ORS. **…Respondents**

1	**The date when the judgment was reserved**	**22.09.2026**
2	**The date when the judgment is pronounced**	**16.10.2026**
3	**The date when the judgment is uploaded on the website**	**16.10.2026**
4	**Whether only operative part of the judgment is pronounced or whether the full judgment is pronounced**	**Full**
5	**The delay, if any, of the pronouncement of full judgment, and reasons thereof.**	**Not applicable**

CORAM: ***HON'BLE MR. JUSTICE HARKESH MANUJA***

Argued by: Mr. Arihant Goyal, Sr. Panel Counsel, UOI
for the appellant.

Mr. Upender Prashar, Advocate
for respondent nos.1 and 2.

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HARKESH MANUJA, J.

1. By way of the present appeal under Section 30 of the Employees' Compensation Act, 1923 (for short, 'the Act'), the appellant-Railway Administration assails the order dated 27.02.2015 passed by the Commissioner under the Employees' Compensation Act, Amritsar-I (for short, 'the Commissioner'), whereby compensation of Rs.8,67,640/-, along with interest at the rate of 12% per annum from the date of accident till realization, has been awarded to the claimants-respondents No.1 and 2 on account of the death of their son, Rakesh Kumar.

2. Briefly stating, the facts of the case are that respondents No.1 and 2, being the father and mother, respectively, of the deceased Rakesh Kumar, filed a

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claim application pleading that the appellant-Railway Administration was the principal employer, whereas respondent No.3, Prince son of Raj Kumar, was its contractor engaged in supplying labour for carrying out the work of the Railways. On 17.01.2011, the deceased, aged about 25 years, was working as a loader at platform No.5 of Amritsar Railway Station. While carrying iron pipes on a pallet wagon, an elderly lady suddenly came in front of him. In an attempt to save her, the deceased fell on the railway track and was run over by a train passing on the same line. He was taken to Guru Nanak Dev Hospital, Amritsar, where his right arm and both legs were amputated. Despite treatment, he succumbed to his injuries on 26.01.2011. His post-mortem examination was conducted at Government Medical College, Amritsar. The deceased was stated to be earning approximately Rs.10,000/- per month. It was pleaded that the accident occurred during the course of his employment, that respondents No.1 and 2 were his legal heirs and dependents, and that no compensation was paid despite a request.

3. Upon notice, the appellant appeared before the Commissioner and filed its written statement, denying the material averments and specifically disputing that respondent No.3 was its contractor. The appellant, however, did not lead any evidence despite sufficient opportunities.

4. On the basis of the pleadings, the Commissioner framed the following issues:

> *"(i) Whether the deceased Rakesh Kumar died during the course of his employment? OPA*
>
> *(ii) Whether the applicants are the legal heirs and dependents of the deceased Rakesh Kumar? OPA*
>
> *(iii) Whether the applicants are entitled to compensation under the Employees' Compensation Act on account of the death of the deceased and, if so, to what extent and from whom? OPA*

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(iv) Relief."

5. Upon appreciation of the evidence, the Commissioner decided issues No.1 to 3 in favour of the claimants. It was noticed that the deceased, in his statement recorded by the GRP on 20.01.2011 while undergoing treatment in the hospital, stated that he was working as a loader at platform No.5 on the date of the accident. The Commissioner accordingly held that the deceased sustained the fatal injuries during the course of his employment and that the claimants were his legal heirs and dependents. For the purpose of computation of compensation, the Commissioner took the monthly wages of the deceased as Rs.8,000/-, applied 50% thereof along with the relevant factor of 216.91 applicable to his age of 25 years, and assessed the compensation at Rs.8,67,640/-. Interest @ 12% per annum from the date of accident till realization was also awarded, with a direction for payment of interest at the rate of 18% per annum in case of failure to deposit the amount within 90 days. While fastening liability upon the appellant, the Commissioner relied upon the judgment of the Delhi High Court in ***Govind Goenka v. Dayawanti and others*****, 2013 ACJ 1897**. A show-cause notice was also directed to be issued to respondent No.3 under Section 4A of the Act regarding imposition of penalty.

6. Learned counsel for the appellant contended that the impugned order was based on conjectures and surmises, as the claimants failed to establish that the deceased was employed by the Railways, either directly or through a contractor. It was argued that no appointment letter or documentary evidence establishing the engagement of respondent No.3 as a contractor was produced. He further submitted that AW-1 failed to establish any employer-employee relationship between the deceased and the appellant and that the mere occurrence of an accident

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on the railway track would not, by itself, fasten liability upon the Railway Administration. The following substantial questions of law were proposed:

> *"(i) Whether, in the facts and circumstances of the case, the claimants have established the direct or indirect employment of the deceased under or with the Railway Administration?*
>
> *(ii) Whether, in the absence of any document or proof of employment under or with the Union of India, the claimants can be said to have discharged the onus of proving issue No.1?"*

7. Per contra, learned counsel appearing on behalf of respondents No.1 and 2 submitted that the findings recorded by the Commissioner were based on cogent and unrebutted evidence. It was contended that the appellant, despite having sufficient opportunities, chose not to lead any evidence and cannot now seek to discredit the findings recorded on the basis of the evidence available on record. It was further submitted that loading work at the railway platform forms part of the business of the Railways and that, in any event, the appellant, being the principal employer, was liable under Section 12 of the Act for compensation payable to a workman engaged through a contractor.

8. I have heard learned counsel for the parties and perused the paper book.

9. At the outset, it needs to be noticed that an appeal under Section 30 of the Act is maintainable only where a substantial question of law is involved. This Court, while exercising jurisdiction under the said provision, is not required to reappreciate the evidence as a court of first appeal. Interference with the findings recorded by the Commissioner would be warranted only where such findings are perverse, based on no evidence, or suffer from an error of law. The principal grievance of the appellant is that the claimants have failed to establish the

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employment of the deceased under the Railway Administration, either directly or indirectly. The aforesaid contention does not merit acceptance.

9.1 A perusal of the record shows that AW-2, Daya Singh, Head Munshi, GRP, Amritsar, produced the official accident record, Ex.AW-2/1. The said record includes the statement of the deceased recorded by the GRP on 20.01.2011, while he was undergoing treatment for the grievous injuries sustained in the accident. The deceased specifically stated that he was working as a loader at platform No.5 on the date of the occurrence. The said statement constitutes relevant evidence regarding the circumstances in which the deceased sustained the injuries. The appellant has not been able to point out any material discrepancy or infirmity in the aforesaid evidence. Nothing material was elicited in the cross-examination of the witnesses so as to discredit their testimony. Even otherwise, the claim application specifically pleaded that the deceased was working as a loader with the Railway Administration under the supervision of respondent No.3, who used to undertake contract work for the Railways. Respondent No.1, Harbans Lal, reiterated these averments on oath in his affidavit, Ex.AW-1/A. The grounds of appeal also record the claimants' case in the same terms. In contrast, the appellant merely denied the engagement of respondent No.3 as its contractor and led no evidence to substantiate its plea. Despite sufficient opportunities, neither the appellant nor respondent No.3 produced any contract, work order, licence, tender document or other relevant record, nor was any witness examined in this regard. The relevant records concerning the engagement of contractors and allocation of work would ordinarily be within the knowledge and custody of the Railway Administration. In these circumstances, the Commissioner was justified in accepting the claimants' unrebutted evidence. The contention that the claimants were required to produce an

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appointment letter or the contract executed between the appellant and respondent No.3 overlooks the fact that the burden of proof in proceedings of this nature is governed by the principle of preponderance of probabilities. The claimants discharged this burden by leading cogent evidence, and a workman engaged through a contractor cannot invariably be expected to possess documentary proof of the contractual arrangement between the principal employer and the contractor.

9.2 Further, even where a workman is engaged through a contractor, the principal employer's liability is governed by Section 12(1) of the Act. The provision makes the principal employer liable to pay compensation where the contracted work is ordinarily part of its trade or business, as if the workman was directly employed by it. In the present case, the deceased was carrying iron pipes on a pallet wagon at platform No.5 of Amritsar Railway Station. The loading and unloading of material in connection with railway operations is ordinarily associated with the business of the Railways. The Commissioner, therefore, rightly applied the principle laid down in ***Govind Goenka (supra)***. The appellant cannot avoid its statutory liability merely because the deceased was not directly appointed by it. Its right to seek indemnity from the contractor under Section 12(2) of the Act, wherever applicable, remains unaffected. Additionally, the evidence establishes that the accident occurred while the deceased was performing his duties. An elderly lady suddenly came in front of him and, in an attempt to save her, he fell on the railway track and was run over by a train. His attempt to avert harm to the lady was incidental to the circumstances in which he was discharging his duties and did not take the accident outside the course of his employment. Nothing on record suggests that he was present at the railway platform for any purpose unconnected with his work. The Commissioner’s finding that the accident

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arose out of and in the course of employment, therefore, suffers from no perversity or legal infirmity warranting interference under Section 30 of the Act.

9.3 The further contention that the accident did not arise out of and in the course of employment is equally devoid of merit. The unrebutted evidence establishes that the deceased was carrying iron pipes on a pallet wagon at platform No.5 when an elderly lady suddenly came in front of him. The deceased fell on the railway track while attempting to save her and was run over by a train. The occurrence thus took place while the deceased was engaged in the work assigned to him. His attempt to avert harm to a person who suddenly came in his way was incidental to the circumstances in which he was performing his duties and did not take him outside the course of his employment. There is no material on record to suggest that the deceased was present at the railway platform for any purpose unconnected with his work. In view of the aforesaid evidence, the findings recorded by the Commissioner that the accident arose out of and in the course of employment and that the deceased succumbed to the injuries sustained therein cannot be termed perverse or based on no evidence. The appellant has not been able to demonstrate any material error warranting interference with the said findings in an appeal under Section 30 of the Act.

10. The remaining findings regarding the status of respondents No.1 and 2 as the legal heirs and dependents of the deceased, as well as the computation of compensation on the basis of monthly wages of Rs.8,000/- and the relevant factor applicable to the age of the deceased, have not been specifically assailed on any sustainable ground. No illegality in the computation of compensation has otherwise been demonstrated. The direction issued by the Commissioner for issuance of a show-cause notice to respondent No.3 under Section 4A of the Act does not call

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for any interference in the present appeal. As regards the substantial questions of law proposed by the appellant, the first question essentially concerns the appreciation of evidence and stands answered against the appellant for the reasons recorded hereinabove. The second question is answered by the provisions of Section 12 of the Act, which fasten liability upon the principal employer in the circumstances contemplated therein, notwithstanding the absence of direct employment. Neither question gives rise to any substantial question of law warranting interference with the impugned order.

11. In view of the discussion made hereinabove, no ground is made out to interfere with the order dated 27.02.2015 passed by the Commissioner under the Employees' Compensation Act, Amritsar-I. The present appeal, being devoid of merit, is accordingly **dismissed**. The statutory amount, if deposited by the appellant before this Court in terms of the proviso to Section 30 of the Act, shall be released to respondents No.1 and 2 in accordance with the impugned order, along with the interest accrued thereon, after due verification and subject to the directions issued by the Commissioner.

12. Pending misc. application(s), if any, shall also stand disposed of.

(HARKESH MANUJA)
JUDGE

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Whether speaking/reasoned Yes/No
Whether reportable Yes/No

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