
(2019) 12 SHI CK 0023

In the High Court Of Himachal Pradesh

Case No : First Appeal From Order No. 449 Of 2018

Guddo And Others

APPELLANT

Vs

Govind Raj Mini And Another

RESPONDENT

Date of Decision : 04-12-2019

Acts Referred:

Citation : (2019) 12 SHI CK 0023

Hon'ble Judges : Sureshwar Thakur, J

Bench : Single Bench

Advocate : Surender K. Sharma, Surinder Saklani, Jagdish Thakur

Final Decision : Dismissed

Judgement

Sureshwar Thakur, J

1. The dependants, of, the deceased Kehar Singh, engaged as a driver, by the respondent No. 1, and, who suffered his demise, in the room, provided to him, by his employer, instituted a claim petition, before the learned Commissioner, under the Employees Compensation Act, Chamba, District Chamba. However, the apposite claim petition, became dismissed by the learned Commisisoner, and, the, aggrieved thereagainst, hence prefer, the, instant appeal, before this Court.

2. For the reasons to be assigned hereinafter, the verdict impugned before this Court, is, well-merited, and, also, no question of law, muchless, a, substantial question of law, arises, for determination. The dependants, of, the afore deceased, would beget success, in their endavour, to validly claim compensation, against the employer, and, also the liability, vis-à-vis, the compensation amount, determined, by the learned Commissioner, would become, fastened, upon the Insurer, only, when assured evidence, is, brought on record, and its making display(s), vis-à-vis, (1) the demise of the afore Kehar Singh, occurring during, the, course, of, his rendering employment, as a driver, with, his employer, and, who became impleaded, as, co-respondent No. 1, in the claim petition. For determining the afore factum probandem, both, the place of demise, of the afore

deceased, as also, the, causa-causans, for his demise, are important.

3. A perusal of the records, discloses, that the demise of the afore Kehar Singh, had not occurred, during the course, of, his driving the vehicle concerned, whereupon, he was engaged, by his employer, co-respondent No. 1, hence as a driver, (i) rather his demise occurred, in, the quarter/accommodation, provided to him, by his employer. Hence, the afore evidence, perse, dis-entitles the claimants, to make any contention, before this Court, that the demise of their predecessor-in-interest, had occurred, during the course of his rendering employment, with his employer. Even a perusal, of, the post-mortem report, placed on record, details that the causa-causans, for the demise of Kehar Singh, becoming comprised, in his suffering a fatal head injury, (i) upon his falling from the window, of, his quarters. Even, the afore causa-causans, vis-à-vis, the demise, of deceased Kehar Singh, as pronounced, in the post-mortem report, remains, un-established, by cogent evidence, hence, becoming adduced, by the claimants, and, vis-à-vis, for want of dereliction, on the part, of the employer against their ensuring qua the window, not begetting any collapse, and, also comprised, in, despite the apt intimation, being made to the employer, by afore Kehar Singh, no replacement thereof becoming effected, hence, the window collapsing, or giving a way, and also hence, the, afore dereliction rather becoming the propelling cause, for the deceased falling therefrom, and, suffering fatal head injuries. However, the afore evidence, is, also grossly amiss, hence leaving un-established, the, requisite causa-causans.

4. Consequently, the claimants, have, abysmally failed to establish any nexus, interse the demise, of, the predecessor-in- interest, and, his, at the relevant time, rendering employment, vis-à-vis, his employer.

5. In view of this, the instant appeal has no merit and the same is dismissed. The impugned order/award, of, 5.6.2018, passed by the learned Commissioner, under Employees Compensation Act, Chamba, District Chamba, in E.C. Act Case No. 8/2012, is, affirmed and maintained. Also, the pending application(s), if any, are also disposed of.