

(2026) 02 DEL CK 1810
In the Delhi High Court
Case No : FAO No. 77 Of 2025

Lal Bahadur

APPELLANT

Vs

Devender Gandhi & Ors

RESPONDENT

Date of Decision : 25-02-2026

Acts Referred:

Indian Penal Code, 1860 — Section 34, 302, 387, 392, 397
Arms Act, 1959 — Section 25, 27
Employee's Compensation Act, 1923 — Section 30

Citation : (2026) 02 DEL CK 1810

Hon'ble Judges : Manoj Kumar Ohri, J

Bench : Single Bench

Advocate : Abdullah Tanveer, Rajnandini, Aman Saini

Final Decision : Allowed

Judgement

Manoj Kumar Ohri, J

1. The present appeal has been filed under Section 30 of the Employee's Compensation Act, 1963 (hereinafter the "Act") and is directed against the order dated 16.12.2024 passed by learned Commissioner in claim application no. ECD/32/ND/2023/2064-2066, whereby the same came to be dismissed.

2. The appellant, who was the claimant before the learned Commissioner, is the father of Vishal (now deceased). The brief facts in a nutshell are that the claim application was preferred by the appellant seeking compensation on account of the death of his son, Vishal, aged 20 years. It was claimed that while Vishal was working as a labourer/workman in the shop of the respondent, i.e., 'All in One Shop', a boy aged 27-28 years robbed the shop and, during the commission of the said offence, fired shots which hit Vishal, who succumbed to his injuries. An FIR bearing no. 376/2021 under Sections 302/392/397/387/34 IPC and Sections 25/27 Arms Act, 1959 was also registered at P.S. Kanjhawala. It was further claimed that at the time of his death, Vishal was earning wages at the rate of Rs.20,000/- per month and that, despite numerous requests by the appellant,

the respondent failed to pay the appropriate compensation. The appellant also claimed interest as well as penalty, as envisaged under Section 4A of the Act.

3. The claim was resisted by the respondent, who took the stand that the deceased was never employed with him. It was stated that the deceased and the respondent's son were friends, for which purpose, the deceased would sometimes come to their shop.

4. In the aforesaid background, the learned Commissioner framed the following issues:-

i. Whether there existed employee-employer relationship between the deceased Sh. Vishal and respondent, if so?

ii. Whether Sh. Vishal died due to injury sustained by him in the course and out of his employment under the respondent, if so?

iii. Whether the claimants are entitled to claim compensation under EC Act, 1923, if so what amount?

iv. Any other relief?

5. The parties led their respective evidence. The appellant examined himself and also exhibited copies of identification documents as well as the death certificate of the deceased, a copy of the FIR, the post mortem report etc.

6. The learned Commissioner, vide the impugned judgment, returned a finding that the appellant had failed to prove the employer-employee relationship between the parties; he thus answered the aforesaid issues in the negative, thereby dismissing the claim application.

7. Before this Court, learned counsel for the appellant contended that the learned Commissioner erred in reaching the aforesaid findings despite the appellant claiming that the deceased was employed with the respondent and that the incident had occurred in the course of and out of his employment.

8. The contentions were repelled by the learned counsel for the respondent, who defended the impugned judgement. Insofar as the issue relating to the employer-employee relationship between the parties is concerned, as noted above, the appellant had claimed the deceased to be employed with the respondent at the wages of Rs.20,000/- per month. It was claimed that the said wages were paid in cash. The respondent denied the said claim. However, this Court is cognizant of the fact that in many cases, workmen are engaged without the issuance of any formal appointment letter or ID cards. Further, the wages are also paid in cash.

9. Besides the claim seeking compensation, the FIR registered in the context of the concerned incident of armed robbery has also been placed on record. The said FIR was lodged at the instance of the respondent. A plain reading of the FIR would show that the respondent had given a statement in which it was stated that he, along with his father and brothers, was running a shop in the name of ?

All in One Shop'. On 25.06.2021, at about 4.00 p.m., he and the deceased were present at the said shop. It was categorically stated that the deceased was engaged on a part-time basis. There was another employee named Arvind, who was also present. At that time, the accused came and committed the offence of robbery, during which shots were fired, hitting the deceased. The complainant had taken the deceased to Aggarsain Hospital, Sector 22, Rohini, where he was declared brought dead. The post mortem report is also on record, as per which the deceased was identified by his father as well as by the respondent's son, Paras Gandhi, and his status was mentioned as "employer".

10. A perusal of the evidence of the respondent shows that he admitted that the other employee, i.e., Arvind, was paid salary in cash. On being asked if there was any documentary proof as to Arvind being an employee, it was initially said that the respondent would bring the said proof; however, at the same time, he admitted that he could not bring any documentary proof. When it was put to the respondent that the FIR mentions that the deceased was employed in his shop, he volunteered that he had answered the questions which the I.O. had asked. He was further asked if the contents of the FIR were false, to which he replied in the negative.

11. From the above, it is evident that the appellant was able to discharge the initial burden that the deceased was employed with the respondent at the concerned time, and the respondent could not rebut the same. It has not been denied that the incident occurred when the deceased was present in the respondent's shop.

12. Having come to the conclusion that the deceased was employed with the respondent, it is held that the incident in which the deceased sustained fatal injuries was in the course of and out of the said employment.

13. Accordingly, the present appeal is allowed, and the matter is directed to be listed before the learned Commissioner for the grant of compensation in accordance with the law.

14. The matter be listed before the learned Commissioner at the first instance on 09.03.2026.

15. The present appeal is disposed of in the above terms..