

(2015) 07 SC CK 0140

In the Supreme Court Of India

Case No : Civil Appeal No. 5484 of 2015 (Arising out of S.L.P. (C) No. 26908 of 2014)

Palwinder Kaur and others

APPELLANT

Vs

Oriental Insurance Co. Limited and others

RESPONDENT

Date of Decision : 21-07-2015

Acts Referred:

Citation : (2016) 148 FLR 591 : (2016) LLR 1 : (2015) 4 SCT 241

Hon'ble Judges : M. Yusuf Eqbal and Arun Mishra, JJ.

Bench : Division Bench

Advocate : R.K. Nain, Pratima N. Chauhan and Jinendra Jain, Advocates, for the Appellant; S.L. Gupta, Varinder Kumar Sharma, Brahm Shankar Kumar, Vikash Chandra and Mala Dubey, Advocates, for the Respondent

Final Decision : Disposed Of

Judgement

1. We have heard learned Counsel for the parties. Leave granted.
2. The Appellants, who are the claimants, are aggrieved by the judgment and order dated 5th April, 2014 passed by the High Court of Delhi at New Delhi in FAO No. 50 of 2012 reversing the judgment and Award passed by the Commissioner, Workmen Compensation awarding a sum of Rs. 3,84,280/- (Rupees three lacs eighty four thousand two hundred and eighty only) as compensation for the death of the deceased while driving the motor vehicle.
3. Admittedly, one Harvinder Singh was the owner of the truck bearing No. HR-55-9697 and the deceased said to have been driving the vehicle. In the course of driving the said vehicle, he sustained grievous injuries committed by the unknown persons, which caused his death.
4. The Commissioner, Workmen Compensation, after considering the entire facts of the case, came to the conclusion that the deceased was, in fact, an employee of Harvinder Singh, who was the owner of the vehicle and in course of employment he was murdered by unknown persons. Consequently, the

compensation of Rs. 3,84,280/- was awarded.

5. The Respondent Oriental Insurance Company Limited challenged the aforesaid order mainly on the ground that the deceased was not the employee of Harvinder Singh, rather he himself was the owner of the vehicle and therefore, under the conditions of insurance policy, the owner is not covered and no compensation is payable.

6. From bare perusal of the impugned judgment passed by the High Court, it appears that without framing any substantial question of law, the High Court proceeded on the basis that the deceased was the owner of the truck. Accepting the submission of the learned Counsel appearing for the Insurance Company, the High Court came to the conclusion that the deceased being the owner of the truck, is not entitled to get any compensation. From perusal of the written statement filed by the Insurance Company it reveals that no specific defence was taken by the Insurance Company that the deceased was the owner of the truck. Moreover, the only pleading appears to be in the written statement is that no document was filed by the claimants showing the deceased as an employee of the original owner-Respondent No. 1.

7. We are, therefore, of the view that on the basis of mere submission made by learned Counsel for the parties, the High Court ought not to have come to that conclusion specifically when there was no such pleading by the Insurance Company. The Commissioner, Workmen Compensation, after considering the entire facts of the case pleaded by the parties, came to the conclusion that at the time of the accident, the deceased was, in fact, driver and employee of the original owner Harvinder Singh.

8. In that view of the matter, we fully agree with the view taken by the Commissioner, Workmen Compensation. Consequently, the appeal is allowed. The impugned order passed by the High Court is set aside, and the Award given by the Commissioner, Workmen Compensation is hereby restored.