
(2008) 07 UK CK 0032
In the Uttarakhand High Court

United India Insurance Co. Ltd.	Vs	APPELLANT
Smt. Baljeet Kaur and Another		RESPONDENT

Date of Decision : 14-07-2008

Acts Referred:

Employees Compensation Act, 1923 — Section 30

Citation : (2008) 07 UK CK 0032

Hon'ble Judges : B.C.Kandpal, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

B.C. Kandpal, J.—This appeal, u/s 30 of Workmen's Compensation Act, 1923, has been filed by the appellant/United India Insurance Company Ltd. against the judgment and award dated 24.08.2006 passed by the Workmen's Compensation Commissioner/Deputy Labour Commissioner, Kumaon Region, Haldwani, District Nainital, in W.C.A. No. 07 of 2006, Smt. Baljeet Kaur v. Darshan Singh and Anr.

2. Brief facts of the case are that Balvinder Singh was working as a driver in Truck No. D.I.G./3587 under the employment of Darshan Singh. On 21.04.2004, the said truck met with an accident, in which Balvinder Singh died. According to the claimant, at the time of his death deceased-Balvinder Singh was 29 years of age and used to earn Rs. 4,500/- per month as salary. The claimant is the widow of deceased-Balvinder Singh. Therefore, the claimant filed the claim petition for a sum of Rs. 4,19,840/- in lieu of death of her husband. 2 Thereafter, opposite parties were issued notices. The opposite party No. 1-employer on 16.11.2004 filed written statement alleging therein that on the date of accident the deceased was engaged as driver in Truck No. D.I.G./3567 and used to earn Rs. 4,500/- per month. The opposite party No. 2-United India Insurance Company Limited on 29.03.2005 filed written statement before Workmen's Compensation Commissioner.

3. Thereafter, both the parties led evidence in support of their case. The learned

Workmen's Compensation Commissioner after having assessed the entire evidence available on record and hearing learned Counsel for the parties, awarded a sum of Rs. 3,69,279/- in favour of claimant, vide judgment and award dated 24.08.2006.

4. Feeling aggrieved by the aforesaid impugned judgment and award dated 24.08.2006, the appellant-United India Insurance Co. Ltd. has filed this appeal before this Court. Heard Sri Pankaj Purohit, learned Counsel for appellant, Sri Pooran Singh Rawat, learned Counsel for respondent No. 1 and perused the record.

5. Learned Counsel for the appellant has argued that learned Workmen Compensation Commissioner has committed error by awarding compensation ignoring the fact that relationship of employer and employee was not proved. He has further submitted that learned Workmen Compensation Commissioner awarded higher compensation without any cogent and reliable evidence on record with regard to income of deceased.

6. The record reveals that claimant-Smt. Baljeet Kaur, who is the wife of deceased-Balvinder Singh, stated in her statement that her husband had been working as driver and died during the course of employment while driving the vehicle and he used to get a sum of Rs. 4500/- per month as salary. She has further stated that her husband was employed as driver over offending vehicle two years before the accident and her husband told her that he was employed as driver over vehicle owned by Sri Darshan Singh and used to get a sum of Rs. 4500/- per month. She has further stated that at the time of death her husband deceased-Balvinder Singh was 29 years of age and in this regard she filed certificate issued by Junior High School Kichha. She also stated that her husband was having valid and effective driving licence at the time of accident, copy of which has been filed on record. She also stated that accident occurred on 21.4.2004 at 1.30 a.m. and deceased died on 1.30 a.m. while he was being brought to hospital by local people and copy of post-mortem report is filed on record and information with regard to accident and papers relating to vehicle were produced by owner of vehicle and my minor son is entitled to get compensation in lieu of death of his father.

7. The claimant also produced Sri Nirmal Singh as witness, who stated in his deposition that on 21.4.2004 he was employed as cleaner over Truck No. D.I.G.-3587 and Balvinder Singh (deceased) was employed as driver over the said vehicle. The said vehicle was being plied by its driver from Ramnagar to Kichha and when it reached near Tarai Gola Sheets Plant at about 10.00-10.30 p.m., Hindustan Truck Trolley loaded with wheat, which was being driven by its driver-Babu Ram rashly and negligently, hit our tractor, as a consequence of which driver-Balvinder Singh sustained grievous injuries on his person and succumbed to those injuries on 22.4.2004. He also stated that he was being given a sum of Rs. 2500/- per month as salary for cleaner and deceased-Balvinder Singh was being given a sum of Rs. 4500/- per month as salary for

driver. Deceased-Balvinder Singh died due to injuries sustained by him during the course of employment. This witness has also been cross examined by opposite party No. 1 and during his cross-examination he stated that it is right to say that no amount has been expended on treatment of deceased-Balvinder Singh. He further stated that the said accident occurred before him and he also sustained nominal injuries in the accident. This witness has also been cross examined by counsel for opposite party No. 2 and he stated that he knew Darshan Singh as well as Balvinder Singh, who is the son of Darshan Singh and he (witness) had been working over the truck of Darshan Singh for 6 to 7 months before the accident.

8. The owner of vehicle-Sri Darshan Singh himself was produced as witness and stated in his cross-examination that he was the registered owner of Vehicle No. D.I.G.-3587 at the time of accident. The F.I.R. of the said accident has been lodged by him on 22.4.2004, copy of which having his signature has been filed on record. He also stated 5 that he gave information with regard to accident to insurance company and at the time of accident his vehicle was having all valid papers. He further stated that now he is not having papers of vehicle in question as he sold the vehicle after some days of the accident. Paper No. 3 was permit of vehicle which was valid for plain areas. At the time of accident his vehicle was insured with United India Insurance Co. and driver and cleaner of vehicle were Balvinder Singh and Nirmal Singh respectively and their salary were Rs. 4500/- and Rs. 2500/- per month respectively. He further stated that he did not have remembered the exact age of Balvinder Singh at the time of accident and his vehicle was being driven by Balvinder Singh for the last two years and he gave information with regard to accident to insurance company.

9. The Workmen's Compensation Commissioner after having considered the entire evidence available on record and hearing learned Counsel for the parties came to the conclusion that deceased-Balvinder Singh was employed as driver over Vehicle No. D.I.G.-3587 owned by opposite party No. 1-Sri Darshan Singh on salary basis at the time of accident and claimant could not be deprived of getting compensation on account of relationship of father and son between owner and driver of vehicle. The owner of vehicle and other witness produced by claimant Sri Nirmal Singh also stated that deceased was employed in the capacity of driver over vehicle of his father and died on 22.4.2004 on account of accident, for which claimant is entitled to get amount of compensation from opposite parties. The Workmen's Compensation Commissioner keeping in view the age of husband of claimant-Balvinder Singh (deceased) as 29 years and on the basis of minimum salary prevalent at that time i.e. Rs. 3033/- per month under the provisions of Workmen's Compensation Act, 1923, awarded a sum of Rs. 3,18,344/- as compensation, along with an interest @ 8% per annum i.e. Rs. 50,935/- from the date of death of deceased i.e. 22.4.2004 to 22.4.2006. Thus, the Workmen's Compensation Commissioner directed opposite party No. 2-United India Insurance Co. Ltd., Rudrapur, to pay a total sum of Rs. 3,69,279/- as compensation to the claimant within a period of one month from the date of

judgment and award. The above finding recorded by Workmen Compensation Commissioner is absolutely justified and does not require any interference by this Court. I do not find any illegality in the method adopted by the Workmen's Compensation Commissioner in calculating the amount of compensation. For the reasons stated above, the appeal lacks merit and is liable to be dismissed.

10. Accordingly, appeal is dismissed. The impugned judgment and award dated 24.08.2006 is confirmed.