



157 IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

FAO-452-1994 (O&M)  
Date of decision : 30.09.2025

FOOD CORPORATION OF INDIA

....Appellant

Versus

SMT. KAMLA DEVI

...Respondent

**CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN**

Present : Mr. K.K. Gupta, Advocate  
for the appellant.

Ms. Vamika Johar, Advocate  
for the claimant/respondent.

**PANKAJ JAIN, J. (ORAL)**

Mr. Gupta has supplied copy of the entire paper book including grounds of appeal as well as impugned order. The same is taken on record.

2. Registry is directed to tag the same at an appropriate place.

3. Instant appeal is directed against order dated 16.12.1993, passed by Commissioner, Yamuna Nagar, under the Workmen's Compensation Act, 1923 (now known as 'Employee's Compensation Act, 1923' and hereinafter referred to as the 'Act').

4. The only issue flagged by Mr. Gupta in the order, is w.r.t. FCI having been held to be liable jointly and severally along with contractor/respondent No.2 even though there was a specific finding that the deceased was employee of the contractor/respondent No.2 and not that of the appellant/FCI.



5. In the considered opinion of this Court, the issue raised by Mr. Gupta, is completely covered by the mandate of Section 12 of the Act, which reads as under:

“**12. Contracting.**- (1) Where any person (hereinafter in this section referred to as the principal) in the course of or for the purposes of his trade or business contracts with any other person (hereinafter in this section referred to as the contractor) for the execution by or under the contractor of the whole or any part of any work which is ordinarily part of the trade or business of the principal, the principal shall be liable to pay to any \*[employee] employed in the execution of the work any compensation which he would have been liable to pay if that \*[employee] had been immediately employed by him; and where compensation is claimed from the principal, this Act shall apply as if references to the principal were substituted for references to the employer except that the amount of compensation shall be calculated with reference to the wages of the \*[employee] under the employer by whom he is immediately employed.

(2) Where the principal is liable to pay compensation under this section, he shall be entitled to be indemnified by the contractor, or any other person from whom the \*[employee] could have recovered compensation and where a contractor who is himself a principal is liable to pay compensation or to indemnify a principal under this section he shall be entitled to be indemnified by any person standing to him in the relation of a contractor from whom the \*[employee] could have recovered compensation] and all questions as to the right to and the amount of any such indemnity shall, in default of agreement, be settled by the Commissioner.

(3) Nothing in this section shall be construed as preventing a \*[employee] from recovering compensation from the contractor instead of the principal.

(4) This section shall not apply in any case where the accident occurred elsewhere than on, in or about the premises on



which the principal has undertaken or usually undertakes, as the case may be, to execute the work or which are otherwise under his control or management.”

6. Accordingly, finding on Issue No.3 is modified to the effect that FCI will only be liable to pay the compensation to the claimant but thereafter shall have a right to recover the same from the contractor.

7. Counsel for the claimant/respondent has also pointed out error apparent on the face of the order passed by the Commissioner. She submits that deceased lost his life at the age of 35 years. He was drawing Rs.1400/- per month as wages. Relevant factor in terms of Schedule IV is 197.06. The compensation has been wrongly assessed to be Rs.78,824/-.

8. There being an arithmetical error, this Court finds that even though the claimant has not filed appeal, this Court must correct the error on the face of the record. Accordingly, the compensation payable to the claimant is re-worked as under:

$$\text{Rs.1400 X 50/100 X 197.06} = \text{Rs.1,37,942/-}$$

9. The claimant shall also be entitled for interest @ 12% per annum in terms of the provisions as contained under Section 4A of the Act for the period commencing from 30 days after the accident till the date of actual realization.

10. In terms of Section 4A, the claimant is also entitled for penalty i.e. 50% of the total awarded compensation. The penalty amount shall bear



interest @ 7% from the date of passing of the award till the date of actual realization.

11. Needless to say, anything already paid to the claimant shall be set off and the appellant/FCI shall have a right to recover the entire amount including the penalty as well as interest from the contractor/respondent No.2.

12. With the aforesaid modification in the impugned award, the instant appeal is disposed off.

13. Pending application, if any, shall also stands disposed off.

September 30, 2025

(Pankaj Jain)

Dpr

Judge

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No