



**209 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**FAO-2650-1999(O&M)
Date of decision : 10.07.2025**

State of Punjab & anr.Appellants

Versus

Jaswinder Kaur & ors.Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present:- Mr. Ishan Kaushal, AAG, Punjab.

Mr. Mukand Gupta, Advocate for the respondent.

PANKAJ JAIN, J.(ORAL)

1. Challenge is to order dated 15.06.1998 passed by the Commissioner under the Workmen's Compensation Act, 1923 (now known as Employee's Compensation Act, 1923) (for short 'the 1923 Act') whereby the claim petition filed by the claimants on account of death of Gurlal Singh who was employed as Driver with the appellant has been allowed and the claimants have been awarded compensation of Rs.2,01,660/- along with interest @12% p.a.

2. Counsel for the appellant has raised two fold plea. He submits that the claim petition was not maintainable under the 1923 Act. The petition, if at all, should have been filed under the provisions of Motor Vehicles Act, 1988 (for short 'the 1988 Act'). The argument raised is without any basis. Admittedly, deceased Gurlal Singh was employed with the appellant. While he was driving the vehicle in course of his employment, the vehicle met with an accident which led to his death.



Section 3 of the 1923 Act provides for employer's liability for compensation. The same reads as under :-

3. Employer's liability for compensation -

(1) If personal injury is caused to an employee by accident arising out of and in the course of his employment, his employer shall be liable to pay compensation in accordance with the provisions of this Chapter:

Provided that the employer shall not be so liable -

(a) in respect of any injury which does not result in the total or partial disablement of the employee for a period exceeding three days;

(b) in respect of any injury, not resulting in death or permanent total disablement caused by an accident which is directly attributable to

(i) the employee having been at the time thereof under the influence of drink or drugs, or

(ii) the wilful disobedience of the employee to an order expressly given, or to a rule expressly framed, for the purpose of securing the safety of employees, or

(iii) the wilful removal or disregard by the employee of any safety guard or other device which he knew to have been provided for the purpose of securing the safety of employee.

(2) If [an employee] employed in any employment specified in Part A of Schedule III contracts any disease specified therein as an occupational disease peculiar to that employment, or if an employee, whilst in the service of an employer in whose service he has been employed for a continuous period of not less than six months (which period shall not include a period of service under any other employer in the same kind of employment) in any employment specified in Part B of Schedule III, contracts any disease specified therein as an occupational disease peculiar to that employment, or if an employee whilst in the service of one or more employers in any employment specified in Part C of Schedule III for such continuous period as the Central Government may specify in respect of each such employment, contracts any disease specified therein as an



occupational disease peculiar to that employment, the contracting of the disease shall be deemed to be an injury by accident within the meaning of this section and, unless the contrary is proved, the accident shall be deemed to have arisen out of, and in the course of, the employment:

Provided that if it is proved, -

(a) that an employee whilst in the service of one or more employers in any employment specified in Part C of Schedule III has contracted a disease specified therein as an occupational disease peculiar to that employment during a continuous period which is less than the period specified under this sub-section for that employment; and

(b) that the disease has arisen out of and in the course of the employment,

the contracting of such disease shall be deemed to be an injury by accident within the meaning of this section:

Provided further that if it is proved that an employee who having served under any employer in any employment specified in Part B of Schedule III or who having served under one or more employers in any employment specified in Part C of that Schedule, for a continuous period specified under this sub-section for that employment and he has after the cessation of such service contracted any disease specified in the said Part B or the said Part C, as the case may be, as an occupational disease peculiar to the employment and that such disease arose out of the employment, the contracting of the disease shall be deemed to be an injury by accident within the meaning of this section.

(2A) If an employee employed in any employment specified in Part C of Schedule III contracts any occupational disease peculiar to that employment, the contracting whereof is deemed to be an injury by accident within the meaning of this section, and such employment was under more than one employer, all such employers shall be liable for the payment of the compensation in such proportion as the Commissioner may, in the circumstances, deem just.



(3) The Central Government or the State Government, after giving, by notification in the Official Gazette, not less than three months' notice of its intention so to do, may, by a like notification, add any description of employment to the employments specified in Schedule III and shall specify in the case of employments so added the diseases which shall be deemed for the purposes of this section to be occupational diseases peculiar to those employments respectively, and thereupon the provisions of sub-section (2) shall apply, in the case of a notification by the Central Government, within the territories to which this Act extends or, in case of a notification by the State Government, within the State as if such diseases had been declared by this Act to be occupational diseases peculiar to those employments.

(4) Save as provided by sub-sections (2), (2A) and (3) no compensation shall be payable to an employee in respect of any disease unless the disease is directly attributable to a specific injury by accident arising out of and in the course of his employment.

(5) Nothing herein contained shall be deemed to confer any right to compensation on an employee in respect of any injury if he has instituted in a Civil Court a suit for damages in respect of the injury against the employer or any other person; and no suit for damages shall be maintainable by an employee in any Court of law in respect of any injury -

(a) if he has instituted a claim to compensation in respect of the injury before a Commissioner; or

(b) if an agreement has been come to between the employee and his employer providing for the payment of compensation in respect of the injury in accordance with the provisions of this Act.”

3. In view of the admitted position on record that the deceased-employee lost his life in an accident arising out of and during course of his employment, the employer cannot deny its liability under the 1923 Act. So far as compensation under the 1988 Act is concerned, the same is provided



under Chapter XI which deals with insurance of Motor Vehicles and 3rd party risks and has nothing to do with the employer-employee relationship.

4. The second argument raised is with respect to absence of calculation by the Commissioner before awarding compensation to the claimants. The argument raised is against the record. Commissioner while deciding issue No.2 observed as under :-

“ISSUE NO.2: As per mark 'Y' Gurlal's date of birth is 8-7-1963 and at the time of death his age was 33 years. The relevant facts in this case is 201.66. According to respondent Gurlal's Salary was 3990/- p.m. but for the purpose of calculation his salary is 2000/-p.m. According to explanation II under Section 4 of the Act, therefore the amount of compensation in this case comes out to be Rs.201660/- (Rupees two lakh one thousand six hundred and sixty only). The respondents should pay the amount within one month. As the respondents failed to pay compensation with in one month, in view of Section 4-A I order that respondents shall pay simple interest at the rate of 12% p.a. on the amount of compensation from the date of death till payment is made.”

5. In view of above, this Court finds that proper calculation has been provided as contemplated under the 1923 Act.

6. Finding no merits in the present appeal, the same is ordered to be dismissed.

7. Pending miscellaneous application, if any, also stands disposed off.

10.07.2025

Pooja Sharma-I

Whether speaking/reasoned:
Whether reportable:

(PANKAJ JAIN)
JUDGE

Yes/No
Yes/No