

**FAO-5155-2025 (O&M)**  
**FAO-5163-2025 (O&M)**

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2025:PHHC:116286



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

**Date of decision : 29.08.2025**

**FAO-5155-2025 (O&M)**

M/s. Venus Co. Pvt. Ltd.

....Appellant

Versus

Sita Ram Das and others

...Respondents

**FAO-5163-2025 (O&M)**

Ms. Venus Co. Pvt. Ltd.

....Appellant

Versus

Kusum and others

...Respondents

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

Present : Mr. Mohak Bhandana, Advocate  
for the appellants.

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

**CM-17229-CII-2025 in FAO-5155-2025**  
**CM-17283-CII-2025 in FAO-5163-2025**

Instant applications have been filed under Section 5 of Limitation Act, 1963 seeking condonation of delay of 21 days in filing the appeals.

For the reasons recorded in the applications, this Court is satisfied that the applicant/appellant has made out a sufficient cause for condonation of delay.



Consequently, the present applications are allowed. The delay of 21 days in filing the instant appeals is hereby condoned.

**FAO-5155-2025**  
**FAO-5163-2025**

Instant two appeals are directed against the order passed by the Commissioner under the Employee's Compensation Act, 1923 (hereinafter referred to as 'the 1923 Act').

2. Since both the appeals arise out of the same accident and involve common question of law in the background of same facts, both are being decided by a common judgment.

3. The employer is in appeal. Commissioner under the Employee's Compensation Act, allowed the claim petition filed by an injured/employee Sita Ram Das and that filed by Kusum and others, dependents of deceased/employee Pawan Kukreja.

4. As per the claimants, on 06.11.2019 at about 2.00 PM, Sita Ram Das along with Pawan Kukreja were called and hired by the employer, i.e. the appellant M/s. Venus Company Private Limited for loading and unloading of the goods from vehicle bearing No.HR-55-S-3065, Eicher Canter. As per claimants, Pawan Kukreja and Sita Ram Das were working as helper/labourer for different companies including M/s. Kay Bee Engineers. Both of them were being hired by company for sporadic work of loading and unloading material. On the fateful day, on the asking of driver of the truck from which goods were to be loaded, Pawan Kukreja and Sita



Ram Das opened the gate of the truck. It came in contact with high-tension electric wires thereby electrocuting both of them. It led to death of Pawan Kukreja. Sita Ram Das sustained serious injuries. He was rendered permanently disabled to the extent of 70%. Claimants accordingly, approached the Commissioner seeking compensation under the Employee's Compensation Act.

5. The claim petition was contested by the respondents. Appellant, who was arraigned as respondent No.1, denied employer-employee relationship. Respondent No.1 claimed that the injured as well as the deceased were sent to B.K. Hospital by respondent No.1 on humanitarian grounds as the incident happened outside the factory premises of respondent No.1.

6. Claim petitions were put to trial by Commissioner, framing following issues :

- “1. Whether there is relationship of employee & employer between the applicant and respondent nos.1 & 2.
2. Whether the accident took place during the course of employment of respondent No.1 & 2?
3. Whether the application is not maintainable?
4. Relief.”

7. Holding the deceased as well as the victim, employees of respondent No.1, the Commissioner allowed the claim petitions. An amount of Rs.7,39,441/- along with interest @ 12% per annum from the date of



accident till its actual realization has been awarded in the case of Sita Ram Das the injured/victim, and compensation of Rs.8,30,975/- along with interest @ 12% per annum from the date of filing of the claim petition till its actual realization has been awarded to the dependents of the deceased Pawan Kukreja.

8. Counsel for the appellant has assailed the findings recorded by the Commissioner. He refers to the testimony of claimant Sita Ram Das to submit that he admitted of being employee of M/s. K.B. Engineering, Sector 23, Sanjay Colony, Faridabad, yet has been wrongly held to be an employee of appellant M/s. Venus Company Private Limited. He further refers to testimony of Kusum, who appeared as AW-1 in the claim proceedings pertaining to death of Pawan Kukreja and admitted that her husband was not working with Venus Company.

8.1. Relying upon the aforesaid admissions, Mr. Bhandana submits that the vital admissions made by the claimants themselves have been totally ignored by the Commissioner to answer the issue w.r.t. employer-employee relationship against the appellant. Further reliance is being placed upon ratio of law laid down by Supreme Court in the case of '**Shantabai Ananda Jagtap and another vs. Jayram Ganpati Jagtap and another**', (2023) 8 SCC 171, wherein Supreme Court observed as under :



14. In the evidence led by the appellant no.1, she admitted in her cross-examination that the owner of the vehicle was brother of her husband. It was further admitted that they were having common ration card. They were members of the same Joint Hindu family. Salary certificate of the deceased was produced on record, however the same was not proved. There is nothing to suggest that the so-called employer had admitted the relationship of master and servant. Even before this Court, the learned counsel for the appellants has not been able to refer the evidence produced on record to show that there existed the master and servant relationship between the deceased and the respondent no.1, namely, the owner of the vehicle who has not chosen to put in appearance despite service.

15. The conduct of the parties it is evident from the award of the Tribunal where with a view to receive compensation from the offending vehicle, the owner of the vehicle had appeared in the witness box and stated that he was paying salary of Rs. 2,000/- to the deceased and a daily allowance of Rs. 25/-. In case that was so, nothing prevented the owner of the vehicle, who is said to be the employer, to have appeared before the Commissioner and admitted the relationship of employer and employee. In fact, the conduct of the parties now shows that they intended to claim compensation from the offending vehicle. In a calculated move, no claim was made against the owner of the vehicle or the Insurance Company of the vehicle, being driven by the deceased, before the Tribunal.

16. The relationship of employer and employee has not been proved before the Commissioner. In our opinion, the same being the basic requirement to be fulfilled for claiming compensation under the 1923 Act, the appellants may not be entitled to receive any compensation.

17. Even on the ground of delay in filing the application before the Commissioner i.e. 02.08.2004 also, the same deserves to be dismissed. Case set up by the appellants themselves was that they had not claimed any compensation against the owner of the vehicle, who is alleged to be the employer, while filing application



before the Tribunal. It was for the reason that they wished to claim compensation under the 1923 Act. Once that was so, this fact being in their knowledge from the very beginning, delay of 9 years in filing application under the 1923 Act, is certainly fatal for consideration of the claim by the appellants for award of compensation. In fact, the application before the Commissioner was filed only after the proceedings in the Motor Accident Claims Tribunal were concluded on 07.02.2003 and the appellants were not able to get any compensation in execution. The application before the Commissioner was filed on 02.08.2004. Therefore, in our opinion, no sufficient cause is established for condonation of delay in filing the application.

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8.2. Reliance is also placed upon the ratio of law laid down by the Delhi High Court in ‘**Mohd. Zulfikar Ali vs. Commissioner under the Employees Compensation Act and others**’, 2014 SCC OnLine Del 2976 and ‘**A & A Accessories vs. Commissioner, Workmen’s Compensation**’, 2010 SCC OnLine Del 3640. He further relies upon the ratio of law laid down by the Bombay High Court in the case of ‘**Shri Ravjibhai Chhotubhai Waghela vs. Prashant Kisan Shinde and another**’ - First Appeal No.1892 of 2013, *decided on* September 18, 2014.

9. I have heard counsel for the appellant and have carefully gone through records of the case.

10. The 1923 Act has been enacted with an objective to provide payment by employers to their employees for compensation on account of



injury due to accidents, during the course of employment. Section 2(dd) defines ‘employee’ as under:

“2. [(dd) “employee” means a person, who is—

(i) a railway servant as defined in clause (34) of section 2 of the Railways Act, 1989 (24 of 1989), not permanently employed in any administrative district or sub-divisional office of a railway and not employed in any such capacity as is specified in Schedule II; or

(ii) (a) a master, seaman or other member of the crew of a ship,

(b) a captain or other member of the crew of an aircraft,

(c) a person recruited as driver, helper, mechanic, cleaner or in any other capacity in connection with a motor vehicle,

(d) a person recruited for work abroad by a company,

and who is employed outside India in any such capacity as is specified in Schedule II and the ship, aircraft or motor vehicle, or company, as the case may be, is registered in India; or

(iii) employed in any such capacity as is specified in Schedule II, whether the contract of employment was made before or after the passing of this Act and whether such contract is expressed or implied, oral or in writing; but does not include any person working in the capacity of a member of the Armed Forces of the Union; and any reference to any employee who has been injured shall, where the employee is dead, include a reference to his dependants or any of them;]”

13. Section 2(e) defines ‘employer’ as under:

“2(e) "employer" includes anybody of persons whether incorporated or not and any managing agent of an employer and the legal representative of a deceased employer, and, when the services of a \*[employee] are temporarily lent or let on hire to another person by the person with whom the \*[employee] has



entered into a contract of service or apprenticeship, means such other person while the \*[employee] is working for him;”

14. Section 2(m) defines ‘wages’ as under:

“2(m) "wages", includes any privilege or benefit which is capable of being estimated in money, other than a travelling allowance or the value of any travelling concession or a contribution paid by the employer of a \*[employee] towards any pension or provident fund or a sum paid to a \*[employee] to cover any special expenses entailed on him by the nature of his employment;”

15. The plea raised is regarding absence of contract of employment.

16. In the present case, the first version w.r.t. accident came in the shape of FIR registered on the statement made by Kusum, dependent of deceased Pawan Kukreja. The contents of FIR, read as under:

“To the SHO, Police Station Mujesar District Faridabad. Sir, I request that I am Kusum W/o Pawan Kukreja resident of House-1745, Sector-55, Faridabad and I have two daughters and I stay at home. Yesterday on 06.11.2019 at about 02:00 PM my husband Pawan took his auto no. HR-38X-1194 to Venus Company Sector-24 to load the material. Naresh driver called him to Venus Company Sector-24 for loading the material. At about 6:00 PM in the evening, I received a call from someone from Venus Company that Pawan got an electric shock from high tension electricity outside the gate of Venus Company while loading the vehicle. When I reached Sector-24, I met the driver Naresh at Plot No. 179 who told me that your husband and Sitaram both had come to load the goods of Venus Company. Before loading the Eicher Canter HR-55-S-3065, driver Naresh asked supervisor Balvinder Sardar of



Venus Company to park the vehicle inside for loading, which supervisor Balvinder got arranged for loading outside the company gate where there were high tension electricity wires and poles. When the vehicle was not allowed to be parked inside, Pawan and Sitaram both opened the side door to load the goods, the upper corner of the door touched the high-tension electricity wire and the electric current threw Pawan and Sitaram helper into the wall, which caused the front tyre of the vehicle to burst on the driver's side. Naresh driver has been getting the goods loaded in the vehicle with the help of helper and taking it away from Venus Company Sector-24, Plot No. 179, Faridabad, for about 2 years. Today despite Balvinder supervisor was told not to get the vehicle parked outside, he got the vehicle parked outside. If due to negligence of Balvinder supervisor, Pawan and Sitaram got electric shock and after that they were taken to B.K. hospital for treatment before my arrival. When I reached B.K., I enquired from the doctor and the doctor declared my husband Pawan dead and referred Sitaram to Delhi Safdarjung Hospital for treatment. My husband Pawan died due to the negligence of supervisor Balvinder and the owner of the company. Appropriate legal action should be taken against supervisor Balvinder and the owner of the company. This incident happened yesterday on 06.11.19 at 03.30 PM. The people of Venus company left my husband Pawan and Sitaram at B.K. hospital and ran away. Thank you. Applicant SD/- xxxx”

(emphasis supplied)

The version is corroborated by the statement of injured witness Sita Ram Das.

17. In view thereof, there is ample evidence on record to suggest that Pawan Kukreja as well as Sita Ram Das were hired by the appellant on the fateful day for loading and unloading. To be an employee under the



Employee's Compensation Act, there is no requirement for a written agreement of employment. The contract of employment can be oral or in writing. It can be expressed or implied. It has come on record that it is when both Sita Ram Das as well as Pawan Kukreja were unloading the goods from the vehicle that they came in contact with high tension wires which led to death of one and injury to the other. The reliance upon the admission made by Kusum as well as Sita Ram Das does not help the cause of the appellant. Admittedly, neither Sita Ram Das nor Pawan Kukreja were in permanent employment of M/s Venus Company Private Limited, the appellant, but were hired on the said day for a job which led to accident. Thus, Pawan Kukreja died and Sita Ram Das suffered disability in an accident arising out of and during the course of employment under appellant.

18. No evidence was led by the appellant before the Commissioner to show that the vehicle in which the goods were being loaded was never hired by the appellant for transportation of its goods. Thus appellant withheld the best piece of evidence which he possessed.

19. Pure findings of fact has been recorded by the Commissioner. No substantial question of law has been raised. Section 30 of 1923 Act has been interpreted by Supreme Court in the case of '**North East Karnataka Road Transport Corpn. Vs. Sujatha (2019) 11 SCC 514**, observing as under:



“11. The appeal provided under Section 30 of the Act to the High Court against the order of the Commissioner lie only against the specific orders set out in clause (a) to (e) of Section 30 of the Act with a further rider contained in first proviso to the Section that the appeal must involve substantial question of law.

12. In other words, the appeal provided under Section 30 of the Act to the High Court against the order of the Commissioner is not like a Regular First Appeal akin to section 96 of the Code of Civil Procedure, 1908 which can be heard both on facts and law. The appellate jurisdiction of the High Court to decide the appeal is confined only to examine the substantial questions of law arising in the case.

13. When an employer files the appeal, he is under a legal obligation to deposit the entire awarded sum in terms of second proviso to Section 30 of the Act as a pre-condition to file the appeal in the High Court except where the appeal is filed against the order falling in clause (b).

14. It is only when the employer deposits the entire awarded money along with the memo of appeal duly certified by the Commissioner, his appeal is regarded as being properly filed in conformity with the requirement of Section 30 of the Act.

15. Such appeal is then heard on the question of admission with a view to find out as to whether it involves any substantial question of law or not. Whether the appeal involves a substantial question of law or not depends upon the facts of each case and needs an examination by the High Court. If the substantial question of law arises, the High Court would admit the appeal for final hearing on merit else would dismiss in limini with reasons that it does not involve any substantial question/s of law.”



20. In view of above, finding no merit in the present appeals, the same are ordered to be dismissed.
21. A copy of this order be kept on the file of other connected case.

**August 29, 2025**

**Dpr**

**(Pankaj Jain)**

**Judge**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No