



FAO-2857-2020 (O&M)

[251] IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO-2857-2020 (O&M)
Date of Decision : 21.01.2025

United India Insurance Company Limited ...Appellant

versus

Gopal Singh and othersRespondents

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

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

Mr. Ashish Grover, Advocate
for respondent Nos.1 to 3.

None for respondent No.4.

PANKAJ JAIN, J. (ORAL)

[1] Instant appeal is directed against order dated 28.02.2020 passed by the Commissioner under the Employees Compensation Act, 1923, Bathinda. Claim petition was preferred by the three claimants, out of which, two are the minor sons of the deceased. They sought compensation on account of death of Buta Singh. As per them, Buta Singh died on 03.12.2010 in an accident arising out of and during the course of employment, while working as Cleaner/Asstt. Driver with Truck No.PB-08-AD-3177.

[2] The claim petition was resisted by the respondents.

[3] On the basis of pleadings, Commissioner framed following issues:-

“1. Whether application is not maintainable? OPR”



2. *Whether applicant is entitled to the amount claimed if so to what extent and from whom? OPA*
3. *Relief. ”*

[4] Commissioner allowed the claim petition filed by the claimants, granting them compensation of Rs.7,88,240/- alongwith interest @ 12% per annum from the date of application dated 08.01.2015. The impugned order passed by the Commissioner is being assailed, claiming that the accident took place on 03.12.2010 and the present application was filed on 22.12.2014. Section 10 provides for the limitation for filing of claim. In terms of Section 10(1), no claim for compensation is entertainable beyond the period of 02 years.

[5] Counsel for the appellant submits that no sufficient cause was pleaded to seek condonation of delay. He thus, submits that the Commissioner erred in entertaining the claim application and allowing the same despite being stale claim.

[6] *Per contra*, Mr. Grover, counsel for respondent Nos.1 to 3 submits that the Commissioner was fully aware of the fact that two of the claimants are minor sons. The third claimant is a senior citizen (father of the deceased) and it is on account of the aforesaid fact that a specific finding was also recorded by the Commissioner to the said effect. He refers to findings recorded on Issue No.2.

[7] I have heard counsel for the parties and have carefully gone through the records of the case.

[8] It is a matter of record that two of the claimants were still minors when the claim petition was preferred. It is undeniable that two claimants could have preferred the claim petition even after attaining the age



of majority. The same would not have effected the claim on merits or the quantum of the compensation.

[9] Section 10 of the Employees Compensation Act, 1923 reads as under:-

“10. Notice and claim.—

(1) No claim for compensation shall be entertained by a Commissioner unless notice of the accident has been given in the manner hereinafter provided as soon as practicable after the happening thereof and unless the claim is preferred before him within two years of the occurrence of the accident or in case of death within two years from the date of death:

Provided that where the accident is the contracting of a disease in respect of which the provisions of sub-section (2) of section 3 are applicable, the accident shall be deemed to have occurred on the first of the days during which the employee was continuously absent from work in consequence of the disablement caused by the disease:

Provided further that in case of partial disablement due to the contracting of any such disease and which does not force the employee to absent himself from work, the period of two years shall be counted from the day the employee gives notice of the disablement to his employer:

Provided further that if an employee who, having been employed in an employment for a continuous period, specified under sub-section (2) of section 3 in respect of that employment, ceases to be so employed and develops symptoms of an occupational disease peculiar to that employment within two years of the cessation of employment, the accident shall be deemed to have occurred on the day on which the symptoms were first detected:

Provided further that the want of or any defect or irregularity in a notice shall not be a bar to the entertainment of a claim

(a) if the claim is preferred in respect of the death of a an employee resulting from an accident which occurred on the premises of the employer, or at any place where the employee at the time of the accident was working under the control of the employer or of any person employed by him, and the employee died on such premises or at such place, or on any premises belonging to the employer, or died without



having left the vicinity of the premises or place where the accident occurred, or

(b) if the employer or any one of several employers or any person responsible to the employer for the management of any branch of the trade or business in which the injured employee was employed had knowledge of the accident from any other source at or about the time when it occurred:

Provided further that the Commissioner may entertain and decide any claim to compensation in any case notwithstanding that the notice has not been given, or the claim has not been preferred, in due time as provided in this sub-section, if he is satisfied that the failure so to give the notice or prefer the claim, as the case may be, was due to sufficient cause.

(2) Every such notice shall give the name and address of the person injured and shall state in ordinary language the cause of the injury and the date on which the accident happened, and shall be served on the employer or upon any one of several employers, or upon any person responsible to the employer for the management of any branch of the trade or business in which the injured workman was employed.

(3) The State Government may require that any prescribed class of employers shall maintain at their premises at which employees are employed a notice book, in the prescribed form, which shall be readily accessible at all reasonable times to any injured employee employed on the premises and to any person acting bona fide on his behalf.

(4) A notice under this section may be served by delivering it at, or sending it by registered post addressed to, the residence or any office or place of business of the person on whom it is to be served, or, where a notice-book is maintained, by entry in the notice-book.”

[10] A bare perusal of the same reveals that the Commissioner has been clothed with the power to condone the delay subject to his satisfaction of there being a sufficient cause. Preamble attached to the 1923 Act reveals that the objective of the Act is to provide peace and social security to the workman and their families. This Court is of the opinion that the exercise of



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power under Section 10(1) proviso to condone the delay is not dependant upon and is not bound by the strict principles of pleadings. Once Commissioner after appreciating the facts and circumstances of the case comes to the conclusion that there is a sufficient cause to condone the delay, mere absence of the plea raised in the claim petition does not bind him from exercising his discretion. Present is a case where young workman, aged 35 years, died in an accident, leaving behind two minors and an old age father. The claim petition filed by minors was entertained by the Commissioner, rightly recognizing their right to seek compensation on account of death of their father in an accident arising out of employment.

[11] Mr. Grover, counsel for respondent Nos.1 to 3 has rightly contended that even on attaining the age of majority, the claimants would have been within their right to prefer the claim petition. Thus, in view of the above, finding no substantial question involved which is necessary to maintain appeal under Section 30 of the 1923 Act, the same is **dismissed**.

[12] All pending miscellaneous application(s), if any, stands *disposed off*.

(PANKAJ JAIN)
JUDGE

21.01.2025

'R. Sharma'

<i>Whether speaking/ reasoned</i>	:	<i>Yes/No</i>
<i>Whether reportable</i>	:	<i>Yes/No</i>