



\$~5

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **FAO 242/2017 and CM APPL. 20068/2017 – STAY**

NATIONAL INSURANCE CO LTDAppellant

Through: Ms. Tanisha Gopal and Mr.
Arihant Jain, Advs for Ms.
Shantha Devi Raman, Adv.

versus

MANJU DEVI & ORSRespondents

Through: Mr. Anshuman Bal, Adv.

CORAM:

HON'BLE MR. JUSTICE DHARMESH SHARMA

ORDER

14.05.2025

%

1. The hearing is being conducted through hybrid mode.
2. Learned counsel for the appellant/Insurance Company requests for an accommodation stating that the main counsel is unwell.
3. However, having heard the learned counsel for the respondents/claimants, who are the legal heirs of the deceased Kishor Yadav, this Court has no hesitation in holding that some course correction is required in order to finally hear and decide the present matter.
4. The challenge in this appeal is the impugned order passed by the learned Commissioner, Employee's Compensation, whereby claim of the respondents/claimants was allowed and compensation was awarded on account of the death of Kishor Yadav. A finding has been given that the deceased was employed as a driver and that there existed a relationship of employee and employer between him and the respondent No.1.

This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above.

The Order is downloaded from the DHC Server on 16/05/2025 at 13:19:34



5. The main objection of the appellant which is recorded during the institution of the present appeal, *vide* order dated 24.05.2017, is that the driving license of the deceased had neither been placed on the record nor proven in accordance with law, and therefore, there was a violation of the terms and conditions of the insurance policy on the part of the respondent No.1 who was an employee or a person who was not having a valid or effective driving license.

6. It is borne out from the record that the respondent No.1/employer/insured had been proceeded *ex-parte*. Although, notice under Order XII Rule 8 of the Cod of Civil Procedure, 1908 ['CPC'] was served upon the respondent No.1 for production of documents concerning the insured vehicle besides the driving license of the deceased but the same was not produced.

7. It is also evident that it was the case where the insured truck had over turned after falling in a ditch and it took the police almost three hours to extract his body.

8. In the said backdrop, what transpires is that even assuming that the deceased was not having a driving license, there would arise an issue that if liability is fastened upon the insurance company, it would have the legal right to seek recovery of the amount of compensation with interest that would be payable to the respondents/claimants.

9. However, in an earlier order of this Court dated 23.10.2017, the requirement of issuing notice of the present appeal upon the respondent No.8/registered owner/insured was dispensed with, which is an error apparent on the face of record.

10. Therefore, recalling the order dated 23.10.2017 *suo-moto* in exercise of inherent powers of this Court, let notice of the present

appeal be issued to the respondent No.8/registered owner/insured, on



filing of PF within four weeks from today, by all permissible modes including *via* approved courier as well, failing which the appellant/Insurance Company shall be visited a penalty /cost of Rs. 10,000/- which be deposited with the Delhi High Court Legal Services Committee.

11. Re-notify on 28.08.2025.

DHARMESH SHARMA, J.

MAY 14, 2025/sp/sa

This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above.

The Order is downloaded from the DHC Server on 16/05/2025 at 13:19:34