



(2026:HHC:199992026:HHC:19999

IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

FAO No. 36 of 2015

Date of decision: 26.05.2026

OIC Ltd.

.....Appellant

Versus

Madhu & Ors.

....Respondents

Coram

The Hon'ble Mr. Justice Sushil Kukreja, Judge.

¹ *Whether approved for reporting?*

For the appellant:

Mr. Deepak Gupta, Advocate.

For the respondents:

Mr. Rajesh Kashyap, Advocate,
for respondents No. 1 to 3.

Mr. Vivek Sharma, Advocate, for
respondent No. 4.

Sushil Kukreja, Judge (oral)

The present appeal has been filed by the appellant/Insurance Company against the impugned award dated 18.09.2014, passed by learned Employee's Compensation Commissioner, Court No. 1, Mandi, H.P., in WCA Petition No. 15/2011, whereby the petition filed by the petitioners was allowed and they were held entitled for a compensation of Rs. 3,32,055/-, with simple interest at the

¹ *Whether reporters of Local Papers may be allowed to see the judgment?*



rate of 12% from the date of filing the petition till its realization, to be paid by appellant/Insurance Company.

2. The brief facts of the case, as set up by the petitioners, are that respondent No. 1 was a registered Government Contractor and deceased Pawan Kumar had been employed by him as a driver to drive his Tractor, bearing registration No. HP-33A-7306. On 24.05.2007, at about 3:30 P.M., during the course of employment, the said Tractor met with an accident due to failure of brakes, in which, deceased Pawan Kumar expired. According to the petitioners, prior to accident, the deceased was being paid Rs. 5,000/- per month, as wages, as such they claimed compensation in accordance with law.

3. Respondent No. 1 by filing reply has partly admitted the claim of the petitioners in so far as the deceased Pawan Kumar had been employed by him as a driver. However, it has been stated that he had been employed only on 20.04.2007. It has been denied that at the time of accident, the deceased was 23 years of age and was



being paid Rs. 5000/- per month, as wages. The fact that petitioners No. 2 & 3 being related to him has also been denied. It has been stated that the Tractor had been duly insured with respondent No. 2, as such, it is respondent No. 2, who is liable to indemnify the petitioners.

4. By filing reply, respondent No. 2 has contested the petition and raised preliminary objection qua maintainability and stated that there was no relationship of employer and employee between the deceased and respondent No. 1. It has been further stated that the deceased was not holding a valid and effective driving licence and no intimation qua the accident has been given by respondent No. 1 to respondent No. 2.

5. On pleadings of the parties, the following issues were framed for determination:-

- 1. Whether the accident of deceased Pawan Kumar took place during the course of employment as driver of respondent No. 1, as prayed? OPP*
- 2. Whether the petitioners are entitled for compensation, as prayed for?OPP*
- 3. Whether the petition is not maintainable? ? OPR*
- 4. Whether the deceased was not holding a valid and*



effective driving licence, as alleged? OPR-2

5. Whether there was no relationship of employer-employee between the deceased and respondent No. 1, as alleged? OPR

6. Whether the deceased was casual driver of respondent No. 1 and petitioners are not entitled for compensation, as alleged? OPR

7. Relief.”

6. After the parties led evidence and after hearing the learned Counsel for the parties, the petition filed by the petitioners was allowed and they were awarded compensation of Rs. 3,32,055/-, with interest at the rate of 12% from the date of filing the petition till its realization, to be paid by appellant/Insurance Company.

7. Feeling aggrieved and dissatisfied by the impugned award, the appellant/Insurance Company preferred the instant appeal, which was admitted for hearing on following substantial questions of law:-

“(i) Whether the findings of the Commissioner below regarding relationship of employee and employer is based upon no evidence?

(ii) Whether the Commissioner below is right in fastening the liability upon the Insurance Company despite the fact that the driver was not having valid and effective driving licence at the time of accident?”



8. I have heard the learned counsel for the parties and have also gone through the material available on record, carefully.

9. Learned counsel for the appellant contended that learned Commissioner below has erred in law in fastening the liability upon the Insurance Company, as at the time of accident, the deceased was not holding valid and effective driving licence. He further contended that there was no relationship of employee and employer between the deceased and respondent No. 1, as no record of employment or payment of wages has been produced in evidence.

10. Per Contra, the learned Counsel for respondents/claimants contended that the learned Tribunal below did not commit any error while allowing the petition.

11. The perusal of the record reveals that the learned Commissioner below has given contrary findings with respect to Issue No. 4, as while deciding Issue No. 4, learned



Commissioner below has arrived at the conclusion that the deceased was not holding a valid and effective driving licence, but despite that in the relief clause, amount of the compensation was ordered to be paid by respondent No. 2/Insurance Company without assigning any reason. So far as Issue No. 5 regarding relationship of employee and employer between the deceased and respondent No. 1 is concerned, the learned Commissioner below has also failed to assign any reason while arriving at the conclusion that there was relationship of employee and employer between the deceased and respondent No. 1. Therefore, in this view of the matter, this Court is of the opinion that the matter deserves to be remanded back to the learned Commissioner, Mandi, for its decision afresh.

12. Hence, impugned award dated 18.09.2014 passed by learned Commissioner below is set aside and the case is remanded back to learned Commissioner below to decide the same afresh on all issues, after giving reasonable opportunity to lead evidence to the parties.



13. It is made clear that not more than two opportunities shall be granted to each of the parties to lead evidence.

14. Since the accident pertains to the year 2007, the learned Commissioner below is directed to decide the case as expeditiously as possible and in any event not later than **31.12.2026**. Parties are directed to appear before the learned Commissioner below on **30.06.2026**.

15. Learned Registrar (Judicial) shall ensure that the entire record be remitted to the learned Tribunal below forthwith.

16. The appeal is disposed of in above terms, so also pending application(s), if any.

(Sushil Kukreja)
Judge

26th May, 2026
(raman)