



2026:DHC:4394



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

% Reserved on : 19.02.2026
Pronounced on : 16.05.2026
Uploaded on : 16.05.2026

+ **FAO 264/2021**

SOHBAT SOHBAT HUSSAINAppellant

Through: Mr. S.N. Parasher and Mr. Ritik
Singh, Advocates

versus

MS BRAHMPUTRA CARGO CARRIERS P LTD & ANR.

.....Respondents

Through: Mr. Sumant Kumar, Advocate for
respondent No.1

Ms.Awantika Manohar and Ms.Parul D.,
Advocates for respondent No.2

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT

1. By way of the present appeal, the appellant seeks setting aside/modification of the impugned award dated 12.12.2018 passed by the Commissioner under the Employees' Compensation Act, 1923 (hereinafter referred to as the 'EC Act') in EC/28/NW/18/561 titled '*Smt. Nagma &Anr. Vs. M/s Brahmputra Cargo Carriers (P) Ltd.*'.

2. *Vide* the impugned award, the Commissioner awarded compensation in favour of the claimants/appellants on account of the death of *Jaid*



Abbas(hereinafter referred to as the ‘deceased’)and directed the said amount to be paid by respondent no.1.

3. Briefly stated, the case of the claimants was that the deceased was employed as a helper/cleaner under respondent no.1 on truck bearing registration no. NL-01-K-6373 and was drawing a monthly salary of Rs. 8,000/- per month. On 27.05.2017, while travelling in the said truck from *Assam* to *Delhi* under the instructions of respondent no.1, the truck met with an accident near Parik Hotel, *Bhatputti*, P.S. *Maynaguri*, District *Jalpaiguri*, *West Bengal*, after the driver/*Sh. Babu Khan* lost control and hit a stationary truck bearing registration no. WB-23C-3126, resulting in multiple injuries to the deceased and he expired on the same date. FIR No. 198/2017 under Sections 279/304A IPC was registered at P.S. *Maynaguri*, District *Jalpaiguri*, *West Bengal*.

4. Learned counsel for the appellant submits that the Commissioner wrongly exonerated respondent no.2/Insurance Company from its liability to pay compensation despite the fact that respondent no.1 had admitted the employer-employee relationship with the deceased and also admitted that the vehicle was duly insured on the date of the accident.

5. Learned counsel for respondent no.1 submits that the vehicle was duly insured with respondent no.2 on the date of the accident and additional premium had also been paid towards coverage of legal liability of the driver /cleaner employed on the vehicle. The intimation of the accident was duly conveyed to the insurer on the date of accident itself. It is submitted that once the employer-employee relationship; the accident during the course of employment and subsistence of policy stood admitted, respondent no.2 was liable to indemnify respondent no.1.



6. Learned counsel for the respondent no.2 submits that the appellant as well as respondent no.1 failed to place on record any documentary evidence regarding the employer-employee relationship of the deceased with respondent no.1 and, therefore, the Commissioner rightly exonerated respondent no.2 from liability.

7. I have heard the counsel for the parties and perused the records.

8. Notably, the Commissioner also accepted the existence of employer-employee relationship, observing that respondent no.1, in its written statement, had admitted that the deceased was employed as a helper/cleaner on the vehicle bearing registration no. NL-01-K-6373 and was drawing wages of Rs. 8,000/- per month. Respondent no.1 further admitted that the accident occurred arising out of and during the course of employment while the deceased was travelling in the said vehicle from *Assam* to *Delhi*. It was also stated that respondent no.1 had borne the expenses relating to the last rites of the deceased and had informed the respondent no.2 about the accident.

9. The record further reveals that the valid driving licence of the driver, namely *Babu Khan*, was one of the articles seized during the course of investigation along with the registration certificate and insurance policy of the offending vehicle. Though respondent no.2 had contended that the driving licence had not been placed on record, the material available on record itself indicates that the driver was holding a valid driving licence at the relevant time.



10. While dealing with the issue relating to proof of employer-employee relationship in claims under the EC Act, this Court in Reliance General Insurance Co. Ltd. v. Ashok Kumar &Anr.¹ has observed as under:-

14. As regards the second issue of existence of relationship of employer and employee, I have already held in various judgments that in this country it is not practical to expect written contracts of employment as between the individual employers of private vehicles and the employees of such vehicles who work as drivers or cleaners or co-drivers. Once it is established by leading evidence on record that the employee was driving the vehicle of the owner then ordinarily the Courts can hold that there was a relationship of employer and employee because there is no reason why the employee is found to be driving the vehicle belonging to a third person when the accident is caused except on account of employment. Therefore, in my opinion, to the extent that there is a relationship of employer and employee between the respondent no.2 and the respondent no.1 herein, this Court cannot upset the findings of facts of the Employee's Compensation Commissioner as arrived at in the impugned judgment dated 15.6.2015.

11. Before proceeding further, it is apposite to note the scope of Section 30 of the EC Act, it is settled through a number of decisions that the scope of appeal under Section 30 is limited. Under the scheme of the EC Act, the Commissioner is the last authority on facts. Being a welfare legislation, the Parliament thought it fit to restrict appeal only to a substantial question of law.(CR:Golla Rajanna & Ors. v. Divisional manager &Anr.²).

12. Since the employer-employee relationship between the deceased and respondent no.1 stands admitted before the Commissioner, this Court, *vide* order dated 15.04.2025, observed that the vehicle was admittedly insured during the relevant period. Accordingly, this Court noted that the only surviving issue for consideration was whether any additional premium had

¹2018 ACJ 2484

²(2017) 1 SCC 45



been paid by respondent no.1 to respondent no.2 so as to cover the liability towards the helper/cleaner under the EC Act.

Thereafter, this Court *vide* order dated 21.05.2025, noted that respondent no.1 produced the insurance policy dated 19.07.2016, valid till 18.07.2017, thereby covering the date of the accident i.e. 27.05.2017. This Court noted that a total third-party premium of Rs.24,858/- had been paid under the policy. Respondent no.1 placed on record the reply received under the RTI Act, which revealed that apart from the basic third-party premium of Rs.24,708/-, an additional premium of Rs.150/- had also been paid towards coverage of legal liability of the driver/conductor/cleaner employed with respect to the vehicle.

13. The Supreme Court in *Mahendra Rai v. United Insurance Co. Ltd. &Anr.*³ has held as under:-

“5. The learned counsel for the Insurance Company submitted that the Commissioner has no jurisdiction under the Act to direct the Insurance Company to pay the compensation; it is the owner who is liable to pay. However, such submission cannot be accepted in view of the fact that the vehicle is insured with the insurance company and that without giving any reason the High Court held that the Insurance Company at the first instance had no liability to meet the award of compensation and doubted the maintainability of the order passed by the Commissioner. We are of the view that after such observations already made the remand of the case will be futile. In fact, we find no error in the order passed by the Commissioner under the Workman Compensation Act, 1923.”

14. In view of the aforesaid facts and circumstances, this Court is of the considered opinion that instead respondent no.2 shall be liable to satisfy the award.

³2014 SCC OnLine SC 1957



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15. Accordingly, the present appeal is partly allowed and the impugned award stands modified to the aforesaid extent.

16. In view of the above, the appeal is disposed of.

(MANOJ KUMAR OHRI)
JUDGE

MAY 16, 2026
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