



2026:DHC:4723



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

% Reserved on : 17.03.2026  
Pronounced on : 25.05.2026  
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+ **FAO 386/2019, CM APPLs. 42620/2019 & 5704/2020**

M/S NATIONAL INSURANCE CO LTD .....Appellant

Through: Ms. Rakhi Dubey and Ms. Arpita  
Srivastava, Advocates.

versus

SUNITA DEVI & ORS .....Respondents

Through: Mr. R.K. Nain, Mr. Daksh Nain, Mr.  
Chandan Prajapati, Mr. Vikrant  
Malwal, Mr. Mukul Kumar, Mr.  
Abhinav Chaudhary, and Mr.  
Lakshay, Advocates for Respondent  
Nos. 1 to 6.  
Mr. Shahbaz Ahmad Naik, Advocate  
for Respondent No.7.

+ **FAO 45/2020, CM APPLs.3625/2020 & 3626/2020**

M/S C S CONCRETE PVT LTD .....Appellant

Through: Mr. Shahbaz Ahmad Naik, Advocate.

versus

SUNITA DEVI & ORS .....Respondents

Through: Mr. R.K. Nain, Mr. Daksh Nain, Mr.  
Chandan Prajapati, Mr. Vikrant  
Malwal, Mr. Mukul Kumar, Mr.  
Abhinav Chaudhary, and Mr.  
Lakshay, Advocates for Respondent  
Nos. 1 to 6.  
Ms. Rakhi Dubey and Ms. Arpita



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Srivastava, Advocates for Respondent  
No. 7.

+ **FAO 281/2023, CM APPLs.57037/2023 & 57039/2023**

SUNITA DEVI AND ORS

.....Appellants

Through: Mr. R.K. Nain, Mr. Daksh Nain, Mr.  
Chandan Prajapati, Mr. Vikrant  
Malwal, Mr. Mukul Kumar, Mr.  
Abhinav Chaudhary, and Mr.  
Lakshay, Advocates.

versus

M/S C.S. CONCRETE PVT LTD AND ANR .....Respondents

Through: Mr. Shahbaz Ahmad Naik, Advocate  
for Respondent No. 1.  
Ms. Rakhi Dubey and Ms. Arpita  
Srivastava, Advocates for Respondent  
No. 2.

**CORAM:**

**HON'BLE MR. JUSTICE MANOJ KUMAR OHRI**

**JUDGMENT**

1. The present appeals arise in the context of a death compensation claim filed by the legal heirs of one *Satyaveer Singh @ Satbir* (hereinafter referred to as the “deceased”) under the provisions of the Employees’ Compensation Act, 1923 (hereinafter referred to as the “EC Act”).

Learned Commissioner, *vide* the impugned order dated 12.07.2019, allowed the claim and directed M/s. National Insurance Co. Ltd. (hereinafter the “insurance company”) to pay the compensation amount, and directed M/s. C. S. Concrete Pvt. Ltd. (hereinafter the “employer”) to pay the penalty amount.

2. While the insurance company and the employer have assailed the



impugned order for the respective directions passed against them, the claimants have also sought enhancement of compensation *vide* their separate appeal.

3. The facts in a nutshell, as stated in the claim application, are that the deceased, during his lifetime, was employed as the driver of a truck bearing no. HR-55-J-7315 owned by the employer. The truck was duly insured and had a subsisting policy from 22.11.2016 to 21.11.2017 issued by the insurance company. The insurance company also charged an additional premium from the employer under the EC Act. It was claimed that on the intervening night of 02.05.2017, the deceased met with an accident which occurred out of and during the course of his employment. It was stated that when the vehicle reached *Fatehpur Beri*, some unknown miscreants attacked the deceased, while he was on duty. He ultimately succumbed to the injuries sustained as a result of the attack, which led to the registration of DD No. 9A dated 03.05.2017. The post-mortem of the deceased was also conducted at AIIMS Hospital. The claimants stated that, during his lifetime, the deceased was drawing wages @ Rs.15,000/- per month plus @ Rs.200/- per day as food allowance. It was also stated that the employer was aware of the incident, however, failed to provide any compensation, and thus, was liable to pay the penalty.

4. The employer as well as the insurance company appeared before the learned Commissioner and contested the claim application. While the employer denied its liability by stating that the death did not occur out of and during the course of employment, the insurance company contended that the incident was a case of murder and not a vehicular accident, and as such, it was not liable to pay any compensation.



5. Before this Court, learned counsel for the insurance company contended that the employer-employee relationship between the parties has not been conclusively established. Further, it was reiterated that there is no eyewitness to the incident and the learned Commissioner failed to appreciate that, it being a case of murder, no compensation is required to be paid.

6. Learned counsel for the employer submits that the learned Commissioner erred in relying on the testimony of *Satendra Kumar*, who was neither an eyewitness nor employed with the employer. Further, it was submitted that his testimony would show that the body of the deceased was found 100 meters away from the said truck.

7. Learned counsel for the claimants seeks enhancement of compensation by contending that the learned Commissioner, while granting compensation, took Rs.8000/- as the monthly wages of the employee and, by referring to Section 26 of the Motor Transport Workers Act, 1961, submitted that double the amount of the wages ought to have been considered. Similarly, it was stated that while assessing the amount towards penalty, interest should have been included.

8. Though the scope of an appeal filed under Section 30 of the EC Act is limited, considering that all three parties have assailed the impugned order, this Court proceeds to examine the case.

9. The First Information Report (FIR) about the incident came to be recorded *vide* DD No. 9A at the instance of the employer, who had made the PCR call from his own phone. In the said call, it was stated that his employee/driver had been murdered.

10. The issue as to whether there was any employee-employer relationship stands answered in the affirmative by the impugned order. In



this regard, it is sufficient to note that besides examining the wife of the deceased, the claimants also examined one *Satendra Kumar*, who categorically deposed that he was employed by the same employer as a driver for about three months and, on his reference, the deceased came to be employed with the employer. The witness further deposed that although he had left the job 20 days prior to the incident, information about the incident was given to him by none other than the employer.

11. The director of the employer himself, in his cross-examination, admitted that the deceased was employed by him as a driver of vehicle no. HR-55-J-7315. He admitted to informing the police authorities about the incident.

12. In light of the above evidence, this Court is of the considered opinion that the finding of the learned Commissioner on the said issue cannot be said to be perverse in any manner.

13. Coming to the second issue, it has been contended that the incident is a *simpliciter* case of murder and not an accident. To press the said submission, learned counsel for the insurance company has referred to the factum of the body being found away from the truck.

14. The witness *Satendra Kumar* has deposed that when he reached the place of the incident, he found the body of the deceased lying at a distance of about 100 metres from truck no. HR-55-J-7315. The director of the employer has stated that the truck was found parked about 50-60 feet away from the body of the deceased.

15. In order to determine this issue, the Court needs to examine if there is any connection between the incident and the employment.



16. Learned counsel for the insurance company has placed heavy reliance on the decision of Rita Devi & Ors. Vs. New India Assurance Co. Ltd. & Anr.<sup>1</sup>, wherein it was held as under:

*“10. The question, therefore is, can a murder be an accident in any given case? There is no doubt that ‘murder’, as it is understood, in the common parlance is a felonious act where death is caused with intent and the perpetrators of that act normally have a motive against the victim for such killing. But there are also instances where murder can be by accident on a given set of facts. The difference between a ‘murder’ which is not an accident and a ‘murder’ which is an accident, depends on the proximity of the cause of such murder. In our opinion, if the dominant intention of the Act of felony is to kill any particular person then such killing is not an accidental murder but is a murder simpliciter, while if the cause of murder or act of murder was originally not intended and the same was caused in furtherance of any other felonious act then such murder is an accidental murder.”*

17. Learned counsel for the employer has additionally placed reliance on the judgments of the High Court of Jharkhand at Ranchi in National Insurance Company, Ramgarh Vs. Kulsum Khatoon & Anr.<sup>2</sup> and National Insurance Company Ltd. Vs. Hiramain Devi; Peshkar Kherwar; Sadhu Charan Sahu<sup>3</sup> to contend that the murder of the deceased in the present case cannot be termed ‘accidental’; the EC Act is intended to cover only unintentional accidents and not intentional acts which are homicidal in nature.

18. On the other hand, learned counsel for the claimants has referred to the judgments delivered by the Coordinate Benches of this Court in ICICI Lombard General Insurance Co. Limited Vs. Smt Sonia & Ors.<sup>4</sup> and M/s.

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<sup>1</sup> (2000) 5 SCC 113

<sup>2</sup> M.A. No. 83 of 2011, decided on 13.01.2022.

<sup>3</sup> 2022 LawSuit (Jhar) 916

<sup>4</sup> 2014 SCC OnLine Del 707



Adecco India Pvt. Ltd. Vs. Shriram & Anr.<sup>5</sup>, as well as the decision by this Court in New India Assurance Company Ltd. Vs. Kamla Devi & Ors.<sup>6</sup>, to rebut the said contentions.

19. In ICICI Lombard (supra), this Court dealt with a case wherein the driver of a vehicle was assaulted by persons while driving the concerned vehicle at the behest of his employer, and ultimately succumbed to the same. This Court held that the expression “arising out of and in the course of employment” does not mean that death has to occur only because of the driving of the vehicle. It was held that the said expression is wide enough to take into its fold the death of an employee who is attacked while performing the duties of a driver.

20. It is also deemed apposite to refer to the decision of this Court in Kamla Devi (supra), the relevant portion of which is reproduced hereunder:

*“5. With regard to the question of liability of insurance company in case of murder, it is deemed expedient to advert to the decision in Shrimati Bhagubai v. The General Manager, Central Railway reported as 1954 SCC OnLine Bom 10, where a Division Bench of the Bombay High Court analysed circumstances under which a causal connection between employment of the deceased and his accident is established. It was observed as follows:—*

*‘...Now, it is clear that there must be a causal connection between the accident and the employment in order that the Court can say that the accident arose out of the employment of the deceased. It is equally clear that the cause contemplated is the proximate cause and not any remote cause. The authorities have clearly laid down that if the employee in the course of his employment has to be in a particular place and by reason of his being in that particular place he has to face a peril and the accident is caused by reason of that peril which he has to face, then a causal connection is established between the accident and the employment. It is now well settled that the fact that the employee shares that peril with other members of the public is an*

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<sup>5</sup> 2017 SCC OnLine Del 8343

<sup>6</sup> 2023 SCC OnLine Del 1139



*irrelevant consideration. It is true that the peril which he faces must not be something personal to him; the peril must be incidental to his employment. It is also clear that he must not by his own act add to the peril or extend the peril. But if the peril which he faces has nothing to do with his own action or his own conduct, but it is a peril which would have been faced by any other employee or any other member of the public, then if the accident arises out of such peril, a causal connection is established between the employment and the accident. In this particular case what is established is that the employee while in the course of his employment found himself in a spot where he was assaulted and stabbed to death. He was in the place where he was murdered by reason of his employment. He would have been safely in his bed but for the fact that he had to join duty, and he had to pass this spot in order to join his duty. Therefore the connection between the employment and the accident is established. There is no evidence in this case that the employee in any way added to the peril. There is no evidence that he was stabbed because the assailant wanted to stab him and not anybody else.*

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*Once the peril is established it is for the employer then to establish either that the peril was brought about by the employee himself, or that the peril was not a general peril but a peril personal to the employee. It is because of this that the authorities have made it clear that the causal connection between the accident and the employment which the applicant has to establish is not a remote or ultimate connection but a connection which is only proximate. Once that proximate connection is established the applicant has discharged the burden, and in this case the proximate connection between the employment and the injury is the fact that the deceased was at a particular spot in the course of his employment and it was at that spot that he was assaulted and done to death.'*

*6. To a similar extent is the decision of Co-ordinate Bench of this Court in United India Insurance Co. Ltd. v. Ashwani Kumar reported as 2014 SCC OnLine Del 281, where it was opined that if a driver is murdered when he is driving a truck during the course of his employment, then there exists the necessary connection of the death arising out of and in the course of employment.*

*7. In the present case, respondent No. 3 admitted to having employed the deceased. He also supported the fact that the deceased was coming back taking the goods from Delhi to Narwana under his instructions when the incident occurred. Accordingly, the first ground raised is rejected as being devoid of merit."*



21. To decide the present issue, a gainful reference may also be made to the decision of the Coordinate Bench of this Court in United India Insurance Co. Ltd. Vs. Kamlesh & Ors.<sup>7</sup>, wherein a driver on duty was killed in a sudden altercation while handing over charge of his vehicle. The insurer *inter alia* contended that the deceased had died due to injuries suffered in a quarrel and not due to an accident arising out of the use of the insured vehicle; it was further contended that the murder could not be said to be an accident for the purpose of granting compensation under the EC Act. The Coordinate Bench, after taking note of Rita Devi (supra) as well as judgments of nine other High Courts, rejected the said contentions and held the death of the deceased to be an accidental death. The Court observed that no evidence had been led by the appellant to suggest that the dominant purpose of the assailant was to kill the deceased. It was further observed that there was no evidence that the deceased had in any way added to the peril or contemplated his death. Consequently, the incident was held to be an unforeseen and untoward happening, and therefore, an accidental death.

22. In light of the aforesaid backdrop of facts and law, this Court is of the considered view that, in the absence of any credible evidence establishing that the death of the deceased was murder *simpliciter*, the incident was rightly considered as murder accident by the learned Commissioner. Thus, the decision to award compensation cannot be said to be perverse or based on vague findings.

23. Coming to the issue of penalty, learned counsel for the insurance company has placed reliance on New India Assurance Co. Ltd. Vs. Rekha Chaudhary and Ors.<sup>8</sup> and Ved Prakash Garg Vs. Premi Devi & Ors.<sup>9</sup> to

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<sup>7</sup> 2017 SCC OnLine Del 9853

<sup>8</sup> 2026 SCC OnLine SC 294



submit that if any additional amount of compensation is awarded by the learned Commissioner under the EC Act by way of penalty, the same would be the liability of the insured-employer and not of the insurance company. However, in the present facts, the employer alone has been directed to pay the penalty amount.

24. Coming now to the appeal filed by the claimants, it has been prayed that the workman ought to have been awarded compensation at double the amount of wages in light of Section 26 of the Motor Transport Workers Act, 1961. During the course of arguments, learned counsel for the claimants conceded that no evidence was brought on record to show that the deceased was working beyond eight working hours; as such, the contention is unsubstantiated.

25. On the aspect of interest being included while awarding penalty, the discretion exercised by the learned Commissioner in awarding 50% of the compensation towards penalty is held to be just and proper.

26. Consequently, the impugned order is upheld and the challenges by the insurance company and the employer fail. For the reasons noted above, the appeal seeking enhancement preferred by the heirs of the deceased is also meritless and rejected.

27. The present appeals, along with the pending applications, are disposed of in the aforesaid terms.

**(MANOJ KUMAR OHRI)  
JUDGE**

**MAY 25, 2026**

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<sup>9</sup> (1997) 8 SCC 1