

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH  
AT JAMMU**

**Case No.** FAO(WC) No. 30/2022

Reserved on: 24.09.2026  
Pronounced on: 28.09.2026  
Uploaded on: 28.09.2026

Whether the operative part or  
full judgment is pronounced:- **Full**

Oriental Insurance Co. Ltd. Subash Nagar, Jammu  
Through its Dy. Manager Smt. Savita Bakshi.

.....Petitioner/Appellant(s)

Through: Mr. Amrit Sarin, Advocate.

**Vs**

1. Jan Begum  
W/o Mohd. Rafiq.
2. Mohd. Shakoor  
S/o Mohd. Rafiq.
3. Shoket Hussain  
S/o Mohd. Rafiq  
All residents of village  
Kotedhara Tehsil & District  
Rajouri.
4. Abdul Hanif  
S/o Suraj Din  
R/o Near Kiryani Talab  
Masjid, Village Raika  
Narwal, Jammu (owner of  
Vehicle No. JK02CP-1586)

..... Respondent(s)

Through: Mr. Rajesh Kumar, Advocate

**CORAM: HON'BLE MR. JUSTICE SHAHZAD AZEEM, JUDGE**

**(JUDGMENT)**

1. This appeal under Section 30 of the Employees Compensation Act, 1923 [Act of 1923] is directed against the award dated 27 June 2022 passed by the Assistant Labour

Commissioner], Rajouri [for short “ALC”], whereby compensation of Rs. 15, 74, 400/- along with interest @ 12 % per annum w.e.f 21.06.2021 to 21.06.2022 came to be awarded in favour of the respondents-claimants (dependents of the deceased employee) on account of the death of deceased-Khadam Hussain, driver of tanker bearing registration No. JK02CP-1586 owned by respondent No. 4-Abdul Hanif. The insurer is the appellant.

**2.** The facts lie in a narrow compass. The respondents No. 1 to 3 filed a claim petition before the ALC alleging that the deceased was employed by respondent No. 4 as driver of the said tanker and died on 21 May 2021 at Pampore while returning from Kashmir after unloading the tanker, due to cardiac arrest on account of stress and strain of duty.

**3.** The appellant contested the claim, inter-alia, on the grounds that the death by cardiac arrest did not arise out of employment and there was violation of the insurance policy. Respondent No. 4, despite service, did not appear and was set ex-parte.

**4.** On the basis of the pleadings, the ALC framed the following issues:-

***“1. Whether deceased Khadam Hussain S/o Mohd Rafiq lost his life during & in course of employment with respondent No. 1 on 21.05.2021 at Pampore? OPP.*”**

**2. Whether the petitioners are entitled to any compensation under E.C Act? OPP.**

**3. What was the age and wage of the deceased at the time of accident? OPP.**

**4. Whether the respondent No. 2 is not liable to pay compensation under E.C Act? OPR-2.**

**5. Relief.”**

**5.** On the basis of evidence led by the parties, issues No. 1 to 3 were decided in favour of claimants. Issue No. 4, the onus whereof cast on the Insurer (appellant herein) was decided against it.

**6.** Learned counsel for the appellant submitted that the cause of death was cardiac arrest, which has no proximity with the nature of employment, and the death cannot be said to have arisen out of and in the course of employment. Reliance was placed on the judgment of Hon'ble Supreme Court passed in ***Shakuntala Chandrakant Shresthi Vs. Prabhakar Maruti Garvali and anr.; (2007) 11 SCC 668***

**7.** *Per contra*, learned counsel for respondent Nos. 1 to 3 contended that it was specifically pleaded and proved that the cardiac arrest was on account of stress and strain of the employment and prayed for dismissal of the appeal.

**8.** Heard learned counsel for the parties and perused the record.

**9.** The short point that arises is whether the deceased-Khadam Hussain died because of cardiac arrest attributable to stress and strain of his employment as driver of tanker and whether such was an accident arising out of and in the course of employment.

**10.** It is not in dispute that the deceased was employed by respondent No. 4 as driver and that he died on 21 May 2021 while on the return journey from Kashmir after unloading the oil tanker. At Pampore, he became unconscious. He was taken to SDH Pampore and declared dead.

**11.** The respondent No. 1-Mst. Jan Begum deposed that respondent No. 4 employed the deceased as a driver on a salary of Rs. 15,000/- per month besides Rs. 100-150 per day as diet charges; that on 21.05.2021, while returning after unloading tanker, he suffered cardiac arrest at Pampore due to stress and strain of duty; and that the mishap occurred during the course of employment. Mohd. Asif, cleaner/conductor of the tanker corroborated her testimony on the employment, the trip and collapse on the return journey.

**12.** The daily diary record and the post-mortem report show that the deceased was brought to SDH Pampore in an unconscious condition by passers-by and was declared dead due to cardiac arrest.

**13.** The onus to prove issue No. 4 was cast on the appellant. It led no evidence. The plea of policy violation, therefore, remained unproved.

**14.** The evidence led by the claimants supports the finding of the ALC that the deceased died during the course of employment with respondent No. 4 and that the cardiac arrest had a reasonable nexus with the stress and strain of long distance tanker driving on the returning journey from Kashmir. Those findings do not call for interference.

**15.** Reliance on **Shakuntala Chandrakant Shresthi (supra)** is misplaced on the facts of this case. In said case, the deceased was a cleaner who died of cardiac arrest due to rupture of an aortic aneurysm. It was neither adequately pleaded nor proved that the heart attack was attributable to employment; the only witness was the mother, who had no personal knowledge. The Supreme Court held that death during duty does not, by itself, raise a presumption of accident and that stress and strain must be established. In the present case, there are specific pleadings that the owner made the deceased drive the tanker 24 × 7, resulting in health issue, and the claimants have led evidence of the mother and cleaner. The appellant did not impeach that evidence. The judgment relied on is, therefore, distinguishable.

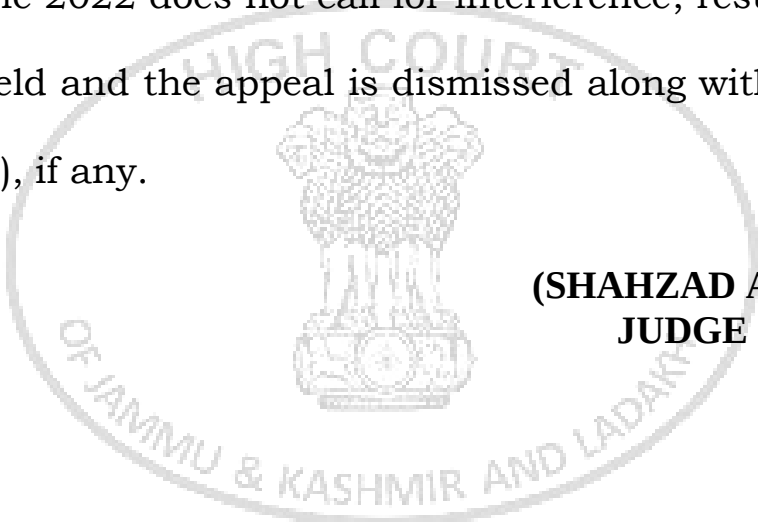
**16.** The further submission that death by heart attack of an oil tanker driver, cannot be attributed to occupational stress is contrary to the law laid down by the Hon'ble Supreme Court in ***Mst. Param Pal Singh Vs. M/s National Insurance Co. and anr. 2013 (3) SCC 409***. There, a truck driver, in the course of such driving, felt uncomfortable, parked the vehicle by the roadside near a hotel and shortly thereafter, died. The Supreme Court held that he had undergone grave strain; that untoward mishap was an "accident"; and that it was attributable to the nature of employment in the employers' trade and business.

**17.** To the same effect is ***Smt. Dariyao Kanwar and ors. Vs. M/s United India Insurance Co. Ltd. & anr. (2023) 18 SCC 210***. The driver felt unconscious while on duty. The Supreme Court held that even if death had not occurred on account of any accident in the popular sense, long spells of driving were a material contributory factor, if not sole cause, accelerated unexpected death at a young age. In both **Param Pal Singh** and **Smt. Dariyao Kanwar** (supra), the Hon'ble Supreme Court restored the award passed by the Commissioner, holding that death arose out of and in the course of employment.

**18.** Applying that settled law, it is held that Khadam Hussain (employee) died during the course of employment with respondent No. 4 of heart attack on account of stress and strain

attributable to the nature of his duty while returning from Kashmir after unloading the oil tanker. The vehicle being insured with the appellant and no breach of policy having been proved, the ALC rightly fastened the liability on the appellant to indemnify.

**19.** There is no substantial question of law is involved. The findings of the ALC are neither perverse nor contrary to the law, therefore, for the foregoing reasons, the award passed by the ALC dated 27 June 2022 does not call for interference, resultantly, the same is upheld and the appeal is dismissed along with connected application(s), if any.



**(SHAHZAD AZEEM)  
JUDGE**

**JAMMU  
28.09.2026  
Tarun/PS**

|                                     |            |
|-------------------------------------|------------|
| <b>Whether order is speaking:</b>   | <b>Yes</b> |
| <b>Whether order is reportable:</b> | <b>Yes</b> |