

**IN THE HIGH COURT OF JHARKHAND AT RANCHI**  
**M.A. No. 83 of 2011**

National Insurance Company, Ramgarh ..... Appellant  
Versus

1. Kulsum Khatoon  
2. Ejazul Haque .... Respondents

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**CORAM : HON'BLE MR. JUSTICE GAUTAM KUMAR CHOUDHARY**

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For the Appellant : Mr. Amaresh Kumar, Advocate

For the Respondents : M/s Shashi Kumar & Santosh Kumar Soni, Advocates  
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**CAV ON 16.12.2021**

**PRONOUNCED ON 13 .01.2022**

1. The instant appeal is preferred under Section 30(1) of the Workmen's Compensation Act by the National Insurance Company against the award dated 17.02.2011 passed in W.C. Case No. 46/1999 by the Commissioner Workmen's Compensation Act, Hazaribagh, whereby and whereunder a compensation of Rs.1,35,560/- has been awarded in favour of the claimants.

2. The award has been assailed on the following substantial question of law:-

1. Whether the relationship of employee and employer has been established between the deceased and the claimants were having relationship of son and father?
2. Whether the impugned order suffers from wrong appreciation of provisions of Act?

3. It is also averred that the deceased had gone missing with the Truck bearing registration No. BHM-8451 on 27.08.1995 whereas the case was registered on 05.01.1997 under Sections 364 and 379 of the IPC. The police submitted charge-sheet with the finding that the case to be true without any clue thereafter the claim case was filed under Section 30(1) of the Workmen's Compensation Act.

4. This appeal has been heard on the following substantial question of law:-

Whether the impugned award is perverse for not being based on evidence, regarding the accident and the relationship of workmen

and employee between the owner and the deceased under the Workmen's Compensation Act?

5. The instant claim application has been filed by the widow and minor children of the deceased Abdul Razzaque and Ganesh Kodrala who were murdered by dacoits and the truck was taken away by them on 27.08.1995. A Station Diary entry being Sanha No. 651 was lodged in the Industrial Area Hazipur and later on 05.01.1997 FIR was lodged with Hazipur Thana.

6. The appeal has been preferred on the ground that the deceased workman driver of the Truck bearing registration N0. BHM-8451 was kidnapped and murdered during the course of employment, which will not come within the meaning of accident and accordingly the Insurance Company shall not be liable for the compensating the claimants.

7. The substantial question of law involved is

*Whether murder of an employee during course of employment will come within the meaning of accident so as to entitle the Owner/Insurance Company for the compensation amount?*

8. Accidental death during course of employment is the *sine qua non* for award of compensation under Section 3 of the Employees Compensation Act, 1923. The expression "arising out of and in the course of employment" postulates a causal link between death and employment. There should be some causal relationship between the employment and the resulting accident of the employee in the course of employment. Causal relationship pre-supposes that nature of employment was the proximate cause of accident. There should be some link howsoever tenuous it may be, between the nature of employment and the accident which can be associated with the hazard of the work being carried out by the employee. For example, explosion can be an occupational hazard in persons dealing with petroleum product, but that can not be in case of one working as a computer programmer. Similarly, while murder of a security guard can very well be said to have been in the course of employment, the same cannot be said of a driver in a private or public vehicle.

9. In the present case it is undisputed that the driver was the father and the owner of the truck was his son. He was abducted along with the truck and murdered. Murder cannot be termed accidental. The policy of insurance under the Employees Compensation Act is intended to cover unintentional

accidents and not intentional acts which are homicidal in nature. To accept a proposition that any death which occurs during course of employment can be termed to have a causal relationship to the nature of employment will be against the object and purport of the Act.

The substantial question of law is accordingly answered in favour of the Appellant/Insurance Company.

Under the circumstance, Judgment and award of the learned Court below is set aside.

The appeal is allowed. The Insurance Company is permitted to withdraw the statutory amount.

**(Gautam Kumar Choudhary, J.)**

Jharkhand High Court, Ranchi  
Dated the 13<sup>th</sup> January, 2022

AFR / Tarun