

IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA

FAO (WCA) No. 380 of 2006

Date of Decision : October 30, 2015

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Oriental Insurance Company Ltd. ... Appellant

Versus

Smt. Indri Devi & others ... Respondents

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Coram:

**The Hon'ble Mr. Justice Sanjay Karol, Judge.**

Whether approved for reporting?

For the appellant : Mr. Deepak Bhasin, Advocate, for the appellant.

For the respondent : Mr. Loveneesh Kanwar, Advocate, for respondents No. 1 to 3.

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**Sanjay Karol, J.** (oral)

In this appeal, the insurer (appellant herein) has assailed the award dated 17.5.2005 passed by the Commissioner (SDM) Workmen's Compensation Act, Sarkaghat, District Mandi, H.P., in Case No. 4 of 2004, titled as *Smt. Indri Devi & others vs. Pinki Singh & another*.

2. The appeal stands admitted on the following substantial questions of law:-

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

“1. Whether the award of the commissioner suffers from illegality and is unsustainable in the absence of necessary issues and findings regarding the entitlement of the claimants for the death of one Sh. Mandial?

2. Whether the Ld. Commissioner was justified in imposing the interest on award amount upon the insurance company in the absence of any contract or statutory provision empowering him to do so?”

3. Insofar as substantial question of law No. 1 is concerned, claimants (respondents No. 1 to 3 herein) claimed the name of the deceased to be Mandyal alias Raj Kumar alias Pradeep Kumar. Smt. Sunita Devi, wife of the deceased person has stepped into the witness box and has deposed such fact. Her statement has been found to be inspiring in confidence. It is a question of fact which needs no interference as findings returned cannot be said to be perverse, erroneous or illegal. Such fact also stands corroborated from the contemporaneous record i.e. the First Information Report which document was prepared immediately after the occurrence of the accident. It cannot be said that the document was prepared only for the purpose of lodging the claim petition. No doubt certificate issued by the Education Board records the name of the

deceased to be Pradeep Kumar but then it stands clarified that Pradeep Kumar is the very same person who was known as Mandyal and Raj Kumar.

4. In this view of the matter, it cannot be said that the Authority below erred in holding the claimants entitled for the compensation as identity of the deceased cannot be said to be in dispute. Significantly record reveals that no issue with regard to the name of the deceased was pressed before the Authority below.

5. Insofar as question of payment of interest is concerned, the issue is no longer *res interga* in view of the decision rendered by the apex Court in *Manju Sarkar & others vs. Mabish Miah & others*, (2014) 14 SCC 21. The liability is that of the insurer. Substantial questions of law are answered accordingly.

With the aforesaid observations, present appeal stands disposed of, so also the pending applications, if any.

**(Sanjay Karol),  
Judge.**

October 30, 2015 (PK)