

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO.4570 OF 2017
[@SPECIAL LEAVE PETITION (C) NO.13873 OF 2015]

SURJIT KAUR

Appellant(s)

VERSUS

THE EMPLOYEES STATE INSURANCE CORPORATION & ORS

Respondent(s)

O R D E R

1. Heard the learned counsel for the parties.
2. Leave granted.
3. Just and legal order passed by the competent authority under ESI Act on 24.2.2012 in CS. No.2/7.12.2007 had been set aside by the High Court without discussing the reasonings given by the Trial Court. Trial Court has found that admittedly, the death of the employee had taken place in the premises of respondent No. 3-M/s Universal Carbons (India) on 2.7.2007 and the deceased was taken to the hospital by the co-workers. Relying upon the evidence and facts and circumstances, it was held that death took place during the course of employment.
4. The Trial Court held that in order to avoid its liability under the ESI Act, the employer had marked Surjit Singh-deceased absent for the entire month of July, 2007 even after his death

on 2.7.2007. .

5. The High Court had set aside the order of the Trial Court on the ground that the attendance register indicated that Surjit Singh was absent on 2.7.2007. No other facts had been taken into account, while reversing the just and elaborate finding and the reasons given by the competent authority, to allow the claim.

6. We find that the observation made by the competent authority in its judgment and order was absolutely correct. The facts and circumstances of the case have not been considered by the High Court and also the admitted fact that death had taken place admittedly, in the premises of respondent No. 3/ employer and the deceased was taken from the factory premises to the hospital by the co-workers. It was to the knowledge of the respondent No. 3 that the employee had died on 2.7.2007. Thereafter, marking his absence for the entire month at one "go" was uncalled for. It was clearly and rightly held to be a case of marking absence on 2.7.2007 in attendance register by the employer so as to avoid its liability.

7. We find no justification to sustain the impugned order since the High Court in its order has not examined the material evidence on record, reasoning employed by the competent authority as well as the admitted facts and has passed the order

in a cursory manner.

8. Thus, the order passed by the High Court is set aside and that of the competent authority is restored.

9. We, accordingly, allow the appeal.

.....J
(ARUN MISHRA)

.....J
(S.ABDUL NAZEER)

New Delhi;
March 27, 2017

ITEM NO.47

COURT NO.12

SECTION XV

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s).13873/2015
(Arising out of impugned final judgment and order dated 04/02/2015
in FAO No. 2834/2012 passed by the High Court Of Punjab & Haryana At
Chandigarh)

SURJIT KAUR

Petitioner(s)

VERSUS

THE EMPLOYEES STATE INSURANCE CORPORATION & ORS
(With Office Report)

Respondent(s)

Date : 27/03/2017 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ARUN MISHRA
HON'BLE MR. JUSTICE S. ABDUL NAZEER

For Petitioner(s) Mr. Nachiketa Joshi, Adv.
Mr. Ritwiz Rishabh, Adv.
Mrs. Sucheta Joshi, Adv.
Mr. Mahesh Srivastava, Adv.
Mr. Vaishav M. Srivastava, Adv.
Mr. P. N. Puri, Adv.

For Respondent(s) Mr. Dinesh Verma, Adv.
Mr. Rajat Sharma, Adv.
Mr. Subhasish Bhowmick, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appeal is allowed in terms of the signed order.

(B.Parvathi)
Court Master

(Tapan Kr. Chakraborty)
Court Master

(signed order is placed on the file)