

UKHC010083302025

Reserved on: 13.08.2026

Delivered on: 17.08.2026

HIGH COURT OF UTTARAKHAND AT NAINITAL

Appeal From Order No.184 of 2025

United India Insurance Company
Through Manager, Incharge T.P.
Hub, Divisional Office, Aish Bagh
Kaladhungi Road Haldwani,
Distt. Nainital

.....Appellant

Versus

Smt. Mithilesh and others

....Respondents

Present:

Mr. Prabhat Pande, Advocate for the appellant.

Mr. Shariq Khurshid, Advocate for the respondent nos. 1 to 7.

Mr. G.C. Lakhchaura, Advocate for the respondent no.8.

JUDGMENT

Per: Hon'ble Ravindra Maithani, J.

Instant appeal is preferred against the judgment and order dated 28.02.2025, passed in ECA Case No. 07 of 2021, Smt. Mithilesh and others Vs. Jeet Singh and another, by the Presiding Officer/Employees Compensation Commissioner, Labour Court Kashipur, District Udham Singh Nagar ("the case"). By it, the claim petition filed by the respondent nos. 1 to 7/the claimants has been allowed and the appellant has been directed to pay Rs.15,59,850/- as compensation with interest to the respondent nos. 1 to 7/the claimants.

2. Heard learned counsel for the parties and perused the record.

3. The case is based on the claim petition filed under Employees Compensation Act, 2023 by the respondent nos. 1 to 7/the claimants. According to the claim petition, Kamal Singh was a workman, he was under the employment of the respondent no.8 as Driver on Truck bearing Registration No. UK18CA3320 ("the truck"). On

30.03.2021, when the deceased Kamal Singh was on duty on the said truck, he fell down from the truck and sustained injuries and died on his way to hospital.

4. The appellant filed objection to the claim petition. According to it, the appellant did not receive any information about the alleged incident, which is mandatory to be given. It has been the case of the appellant that the claimants have to prove their case by solid and incontrovertible piece of evidence; as per police information, the deceased had taken food, thereafter his condition deteriorated resulting to his death. Various other objections were also taken by the Insurance Company.

5. The respondent no.8, the owner of the truck also filed his objection. According to him, on the date of incident, the deceased had parked the truck and had gone to have food. After having the food, the condition of the deceased deteriorated. He was taken to Ranchi Hospital, where he died.

6. Based on the pleadings of the parties, four issues were framed. Parties led their evidence.

7. On behalf of the respondent nos. 1 to 7/the claimants, the respondent no.1 Smt. Mithilesh, wife of the deceased was examined. Various documents were filed by the respondent nos. 1 to 7/the claimants.

8. On behalf of the appellant, DW1 Shri Chandra Shekhar Pandey was examined and certain documents were also filed.

9. On issue nos. 1 and 2, in the impugned judgment, it was held that the deceased Kamal Singh did not die due to injuries sustained after falling from the truck, but he died due to cardiac arrest after having his food, while being on duty on the said truck. It was further concluded that the death of deceased took place during the course of employment and also arising out of the course of his employment. On issue no.3, it was held that at the time of incident, employer – employee relationship existed between the deceased and the respondent no.8, the owner of the truck. The issue no. 4 is with regard to relief. After making calculation, the compensation was awarded as stated hereinbefore. Aggrieved by it, the appellant is in appeal.

10. Heard learned counsel for the parties and perused the record.

11. Under Section 30 of the Act, the appeal may only be admitted on the substantial question of law. In the instant case, the following substantial question of law arises for consideration:-

- (i) Whether the deceased Kamal Singh died out of the employment?

12. Learned counsel for the appellant submits that the respondent nos. 1 to 7/the claimants were to prove their case on their own, but no evidence has been adduced. According to the claim petition, the deceased died due to injuries sustained by falling from the truck. It is argued that no witness was examined by the respondent nos. 1 to 7/the claimants to prove this aspect. He would submit that in the absence of it, it cannot be said that the deceased died out of employment. There is no connection between the death of the deceased

and his employment. He died natural death due to cardiac arrest. Hence, it is not a case in which any compensation may be awarded.

13. In support of his contention, learned counsel has placed reliance on the principles of law, as laid down by the Hon'ble Supreme Court, in the case of *Shakuntala Chandrakant Shreshti Vs. Prabhakar Maruti Garvali and another*, (2007) 11 SCC 668. In paras 26 to 29, the Hon'ble Supreme Court observed as follows:-

“26. In a case of this nature to prove that accident has taken place, factors which would have to be established, inter alia, are:

- (1) stress and strain arising during the course of employment,
- (2) nature of employment,
- (3) injury aggravated due to stress and strain.

27. The deceased was travelling in a vehicle. The same by itself cannot give rise to an inference that the job was strenuous.

28. Only because a person dies of heart attack, the same does not give rise to automatic presumption that the same was by way of accident. A person may be suffering from a heart disease although he may not be aware of the same. Medical opinion will be of relevance providing guidance to court in this behalf.

29. Circumstances must exist to establish that death was caused by reason of failure of heart was because of stress and strain of work. Stress and strain resulting in a sudden heart failure in a case of the present nature would not be presumed. No legal fiction therefor can be raised. As a person suffering from a heart disease may not be aware thereof, medical opinion therefore would be of relevance. Each case, therefore, has to be considered on its own fact and no hard-and-fast rule can be laid down therefor.”

14. On the other hand, learned counsel for the respondent nos. 1 to 7/the claimants submits that the deceased died out of employment. He has taken the truck to Jharkhand from Uttar Pradesh and during that period he died. It is argued that as per DW1 also, the death

occurred due to cardiac arrest which is due to stress out of the employment.

15. In support of his contention, learned counsel has placed reliance on the principles of law, as laid down in the cases of Poonam Devi and others Vs. Oriental Insurance Co. Ltd., AIR 2020 Supreme Court 1305.

16. In the case of Poonam Devi (*supra*), the deceased was a Driver. He was driving the vehicle from Ambala to Meerut. On the way, the deceased went to a canal to fetch water and to have a bath, but unfortunately, he slipped into the canal and died. When compensation was sought, the Hon'ble Supreme Court held that the legal heirs of the deceased were entitled to compensation. It was held that, in fact, going to canal to fetch water was an to refresh himself by the deceased so that he could continue his journey and it was not incident to employment. In para 11 of the judgment, the Hon'ble Supreme Court observed as follows:-

"11. Coming to the facts of the present case, the deceased was driving the truck of Respondent 2 from Ambala to Meerut. Indisputably he was in the course of his employment. We can take judicial notice of the fact that considering the manufacturer's specification, the cabin of the truck was not air-conditioned and would have been a baking oven in the middle of the afternoon in the sultry monsoon heat of June 2003, when the temperature was touching 42.6° C in Yamunagar (Haryana) (source : weatheronline.in). It was a compulsion for the deceased to stay fresh and alert not only to protect the truck of Respondent 2 from damage but also to ensure a smooth journey and protect his own life by safe driving. We can also take judicial notice of the fact that the possibility of the truck also requiring water to prevent overheating cannot be completely ruled out. In these circumstances, can it be said that the act of the deceased in going to the canal to fetch water in a can for the truck and to refresh himself by a bath before continuing the journey was not

incidental to the employment? Every action of the driver of a truck to ensure the safety of the truck belonging to the employer and to ensure his own safety by a safe journey for himself has to be considered as incidental to the employment by extension of the notional employment theory. A truck driver who would not keep himself fresh to drive in such heat would be a potential danger to others on the road by reason of any bona fide errors of judgment by reason of the heat. The theory of notional extension noticed in the Agnes [BEST Undertaking v. Agnes, AIR 1964 SC 193] and followed in Leela Bai [Leela Bai v. Seema Chouhan, (2019) 4 SCC 325 : (2019) 2 SCC (Civ) 334 : (2019) 1 SCC (L&S) 661] is extracted hereunder : (Leela Bai case [Leela Bai v. Seema Chouhan, (2019) 4 SCC 325 : (2019) 2 SCC (Civ) 334 : (2019) 1 SCC (L&S) 661] , SCC pp. 327-28, para 9)

“9. In the facts of the present case and the nature of evidence, there was a clear nexus between the accident and the employment to apply the doctrine of “notional extension” of the employment considered in Agnes [BEST Undertaking v. Agnes, AIR 1964 SC 193] as follows : (AIR p. 199, para 11)

‘11. ...“7. ... It is now well-settled, however, that this is subject to the theory of notional extension of the employer's premises so as to include an area which the workman passes and repasses in going to and in leaving the actual place of work. There may be some reasonable extension in both time and place and a workman may be regarded as in the course of his employment even though he had not reached or had left his employer's premises. The facts and circumstances of each case will have to be examined very carefully in order to determine whether the accident arose out of and in the course of the employment of a workman, keeping in view at all times this theory of notional extension. [Ed. : See also Saurashtra Salt Mfg. Co. v. Bai Valu Raja, AIR 1958 SC 881 p. 882, para 7] ””

17 In the case of and Principal Director, Electronics Service & Training Centre, Kaniya Vs. Sarojini Devi, MANU/UC/0032/2019, this Court *inter alia*, observed in para 9 as follows:-

“Admittedly, deceased was employed as driver with the appellant. It is the specific case of the claimant that due to excessive work load i.e. driving, deceased suffered severe heart attack, which resulted into his death. It is also the specific case of the claimant that the death has occurred during and in the

course of employment. On the other hand, it is the case of appellant that deceased has not died during the course of employment and in the present case there is no connection between the death and employment of the deceased. Though the allegation made in the claim petition has been denied by the appellant-employer but a perusal of record would reveal that the pleadings and evidence has not been specifically controverted by the employer. In cross-examination, DW1 Vriksha Ram has admitted that it is possible to suffer heart attack due to excessive driving work taken by the employer. Furthermore, the claimant has deposed in her statement that the deceased soon after coming from his duty, suffered heart attack, due to which he was admitted in the hospital. As regards the judgment cited by learned counsel for the appellant, the ratio of judgment is not applicable on the peculiar facts and evidence led by the parties.”

18. On behalf of the respondent nos. 1 to 7/the claimants, only respondent no.1/the claimant Smt. Mithilesh has been examined. She is not the eyewitness. She has simply stated that during the course of employment on 30.03.2021, her husband died in Jharkhand. Inquest and post mortem of the dead body of the deceased was also done. In evidence, respondent no.1/the claimant Smt. Mithilesh has not stated that the deceased died due to fall from the truck. She was cross examined, although, in para 15 of her cross examination, she had denied the suggestion that after having food, the condition of the deceased deteriorated, due to which, he fell on the road and died.

19. On behalf of the appellant, DW1 Chandra Shekhar Pandey is the person who conducted an inquiry into the death of the deceased Kamal Singh. According to him, on the date of incident, the deceased was driving the truck. He parked his truck and went to take his food in *Dhaba*. His condition deteriorated. He was taken to hospital, where he died. This witness had admitted that on the date of incident, the deceased had driven the truck from Rampur, Uttar Pradesh to Jharkhand. He has admitted that the deceased died during the course

of employment. According to the appellant also, the deceased died when after having his food, his condition deteriorated. Driving the truck from Rampur Uttar Pradesh to Jharkhand in itself is a very hard task.

20. In the case of Poonam Devi (*supra*), the Hon'ble Supreme Court has held that **“every action of the driver of a truck to ensure the safety of the truck belonging to the employer and to ensure his own safety by a safe journey for himself has to be considered as incidental to the employment by extension of the notional employment theory.**

21. In the instant case, the condition of the deceased according to DW1 Shri Chandra Shekhar Pandey deteriorated, when he was in the course of his employment and had his food. Having food is definitely necessary to continue with the employment. It is not even incidental but the part of the employment. Without having food, the deceased could not have taken the truck further. In fact, as stated the suggestion was given to respondent no.1/Smt. Mithilesh that after having food, when the deceased was returning, he fell on the road and subsequently died. This is definitely incidental to the employment.

22. Having considered, this Court is of the view that no interference is warranted in the impugned judgment and order and the appeal deserves to be dismissed.

23. The appeal is dismissed accordingly.

(Ravindra Maithani, J.)
17.08.2026