

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

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CM No.16638-CII of 2015 and
First Appeal Order No.86 of 1994

Date of Decision: November 20, 2015

Kishni and others

...Appellants

Versus

The Sub Divisional Officer, Sub Division No.8, P.W.D., B&R, Karnal
and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASI

Present: Mr. Sagar Aggarwal, Advocate
for Mr. Ashit Malik, Advocate
for the applicants-appellants.

Mr. Sidharth Sanwaria, Deputy Advocate General, Haryana,
for the respondents-State.

AUGUSTINE GEORGE MASI, J. (ORAL)

CM No.16638-CII of 2015

Prayer in this application is for fixing an early actual date for
disposal of the appeal.

With the consent of the counsel for the parties, the present
application is allowed and the main appeal is taken on board for final
disposal.

FAO No.86 of 1994

This appeal has been filed claiming enhancement of
compensation which has been granted by the Commissioner, under the
Workmen's Compensation Act, Karnal, by award dated 11.10.1993,
whereby on the death of Shri Shugan Chand, who was the husband/father of

appellants 1 and 2 to 4 respectively, entitling them to an amount of ₹55,652/-.

2. It is the contention of learned counsel for the appellants that as per the pleadings, it is not in dispute that the deceased Shugan Chand was working with the respondents-department and performing the duties of Chowkidar. He was murdered by unidentified persons on 26.12.1990 while on duty. A F.I.R. was registered and postmortem was also conducted. The same have been marked as AW-3 and AW-4. Notice through registered post for payment of compensation was given by the appellants to the respondents on 19.12.1991, to which no reply was filed, forcing them to file an application for compensation before the Commissioner, under the Workmen's Compensation Act, Karnal. He contends that even if the finding, as has been recorded by the Commissioner with regard to the age of the deceased i.e. 54 years is accepted, the factor which was required to be taken into consideration as per the Schedule IV is 139.13, on the basis of the said factor, the lump sum compensation which would come out on the death of the deceased Shugan Chand, would be ₹89,617/-. He, therefore, contends that straightway the compensation has to be enhanced to the said amount from ₹55,652/-. His further assertion is that the appellants are also entitled to simple interest at the rate of 12% as per Section 4A(3)(a) of the Employee's Compensation Act, 1923, as the respondents-employer has defaulted in making payment of compensation due under the Act despite there being a notice served on them. He, therefore, contends that the interest also is required to be paid to the appellants. He accordingly prays that the present appeal may be allowed.

3. Counsel for the respondents, on the other hand, submits that the

Commissioner has taken into consideration all the relevant factors and has rightly granted them the compensation, which do not call for any interference by this Court and, therefore, the appeal deserves to be rejected.

4. I have considered the submissions made by the counsel for the parties and with their able assistance, have gone through the impugned award.

5. Perusal of the award would show that the age of the deceased Shri Shugan Chand, at the time of murder, has been assessed at 54 years, applying the factor as per Schedule IV i.e. 139.13, the lump sum amount of compensation comes to ₹89,617/-. The compensation amount, therefore, assessed by the Commissioner is enhanced to ₹89,617/-. The assertion of the counsel for the appellants that they are entitled to interest, also deserves to be accepted as there is not denial of the fact that notice was duly served upon the respondents but no response thereto has been given and accordingly the compensation amount has to carry with it interest. As per Section 4A(3)(a) of the Employee's Compensation Act, 1923, rate of interest has to be 12% simple interest, which the appellant are held entitled to.

6. In view of the above, the present appeal is allowed. The compensation amount is enhanced to ₹89,617/-. The appellants are also held entitled to simple interest at the rate of 12% per annum from the date of accident till the date of disbursal. The consequential benefits be released to the appellants within a period of three months from the date of receipt of certified copy of the order.

November 20, 2015

(AUGUSTINE GEORGE MASIH)
JUDGE