

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

**CWP No. 1639 of 2012
Date of Decision: May 5, 2015**

Hitech Erectors Pvt. Ltd.

..... Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. N. S. Panwar, Advocate
for the petitioner.

Mr. Keshav Gupta, AAG., Haryana.

None for respondent Nos. 2 and 3.

Amit Rawal, J (Oral)

The challenge in the present writ petition is to the order dated 30.12.2011 (Annexure P-1) whereby the Commissioner under the Workmen Compensation Act has decided the alleged claim submitted by the brother of the deceased.

It is stated that the brother of the claimant died while in service. The manner in which the order has been passed is not only erroneous but perverse and illegal. Since no notice has been served, no opportunity of hearing has been given, much less any evidence has been lead in support of the alleged claim, the order passed by the Commissioner Workmen Compensation Act is illegal and is accordingly set aside.

The claimant shall be entitled to claim

compensation as per Employees Compensation Act. If any claim is alleged the same shall be decided by the Commissioner.

Learned counsel for the petitioner contends that the claim was lodged by the brother of the deceased. However, no affidavit whether the mother of deceased was alive or not. Accordingly the brother would be the Class-II heir. In the absence of any Class-I heir, the brother of the deceased would be entitled to compensation.

He further submits that in view of the notice of motion order dated 31.1.2012 of this Court an amount of 50% had been deposited with the Commissioner.

The amount of 50% which was deposited is ordered to be released in the case the applicant moves any application.

Accordingly the writ petition stands allowed.

(AMIT RAWAL)
JUDGE

May 5, 2015
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