

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

FAO No.4555 of 2013 (O&M)

Date of decision: 30.04.2015

New India Assurance Company Ltd

..... Appellant

versus

Tejinder Kaur and others

..... Respondents

CORAM: Hon'ble Mr. Justice Kuldip Singh

Present: Mr. Raghujeet Singh Madan, Advocate
for the appellant
Mr. A. K. Walia, Advocate for respondent No. 1
Mr. Chandandeep Singh, Advocate for respondent No. 2

- 1. Whether Reporters of Local Newspapers may be allowed to see the judgment ?*
- 2. To be referred to the Reporters or not ?*
- 3. Whether the judgment should be reported in the Digest?*

Kuldip Singh, J. (Oral)

The insurance company has challenged the order dated 27.5.2013, passed by the Employees Compensation Commissioner under Employees Compensation Act, 1923-cum-Assistant Labour Commissioner, Circle No.4, Ludhiana.

In this case, Tejinder Kaur married sister of the deceased Inderjit Singh filed an application under the Workmen's Compensation Act, 1923 (for short, 'the Act') for grant of compensation on account of death of her brother Inderjit Singh during the course of employment. The Commissioner awarded compensation to the tune of Rs.3,89,280/- with 12% per annum interest from the date of accident till the actual payment is made.

The insurance company has thrown challenge to the order on the ground that the married sister is not one of the dependents and could not maintain application under the Act. The definition of dependents is given In Section 2(1)(d) of the Act, which is reproduced as under:-

2(1)(d)“dependent” means any of the following relatives of deceased 3(employee)namely:—

- (i) a widow, a minor [legitimate or adopted] son, an unmarried [legitimate or adopted] daughter or a widowed mother; and*
- (ii) if wholly dependent on the earnings of the workman at the time of his death, a son or a daughter who has attained the age of 18 years and who is infirm;*
- (iii) if wholly or in part dependent on the earnings of the 3(employee) at the time of his death,—*
 - (a) a widower,*
 - (b) a parent other than a widowed mother,*
 - (c) a minor illegitimate son, an unmarried illegitimate daughter or a daughter³[legitimate or illegitimate or adopted] if married and a minor or if widowed and a minor,*
 - (d) a minor brother or an unmarried sister or a widowed sister if a minor,*
 - (e) a widowed daughter-in-law,*
 - (f) a minor child of a pre-deceased son,*
 - (g) a minor child of a pre-deceased daughter where no parent of the child is alive, or*
 - (h) a paternal grandparent if no parent of the workman is alive;*

In the definition, married sister is not one of the dependents.

Learned counsel for the respondent- applicant has stated that under Section 22(1A), other person can also file application. Section 22(1A) is reproduced as under:-

“22(1A) Subject to the provisions of sub-section (1), no application for the settlement of any matter by

Commissioner, 5(other than an application by a dependent or dependents for compensation), shall be made unless and until some question has arisen between the parties in connection therewith which they have been unable to settle by agreement.”

The definition lays down that no application for settlement can be made other than by the dependent or dependents. It does not mean that any person other than the dependent defined in Section 2(1)(d) of the Act can file application for grant of compensation.

It being so, on this short ground the appeal is to succeed.

In view of the matter, it is held that the married sister of the deceased could not maintain application under the Act for the grant of compensation.

Appeal is accordingly allowed and the impugned award dated 27.5.2013 is set aside.

30.04.2015
gk

(Kuldip Singh)
Judge