

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

**FAO 1720/1994(O&M)
Date of decision:28.09.2017**

Kartar Kaur and others

.....Appellants

v.

Netarpal Singh and others

.....Respondents

Coram: Hon'ble Mr.Justice Jaswant Singh

Present:- Ms.Sukhmani Patwalia,Advocate for
 Mr.Vikas Singh,Advocate for appellants-claimants

 Mr.Neeraj Khanna,Advocate for respondent no.2-Insurance
 Company.

 Mr.Parvinder Singh,Advocate for
 Mrs.Ritu Punj,Advocate for respondent no.5.

Jaswant Singh,J,(Oral).

Appellants-claimants (parents and minor children of deceased Desa Singh) have preferred this appeal against the order dated 12.4.1994 passed by the Commissioner Ambala under the Workmen's Compensation Act ,whereby they were held entitled to a total compensation of Rs.66,553/- for the death of Desa Singh in a motor vehicle accident arising out of and in the course of his employment. The deceased was working as Driver on the ill fated truck on 3.9.1989.

The impugned order is being challenged on the ground that the learned Commissioner has erred in determining the wages of the deceased. Further, though not taken as a ground of appeal, however, at the time of arguments it was also submitted that learned Commissioner had also erred

while determining the age of the deceased. It is submitted that the deceased was aged 23 years while the Commissioner has wrongly held that the deceased was around 30 years of age.

After perusing the impugned order and records of the case, I find no merit in the submissions made by the counsel for the appellant and hence the present appeal is liable to be dismissed.

Except the bald assertion that the deceased was earning monthly wages of Rs.1800/-, no documentary evidence was led by the appellants/claimants to that effect. The Commissioner, while determining the wage of the deceased had taken the minimum wages of Rs.800/- as fixed by the State of Haryana, applicable at the time of accident i.e. 3.9.1989. In the absence of any evidence having been led by the claimants with regards to the wages of the deceased, in my opinion, the Commissioner has rightly relied upon the minimum wages of Rs.800/- fixed by the State of Haryana and applicable on the date of death of the deceased.

As regards the age of the deceased, through the claimants averred that the deceased was about 23 years of age, yet no documentary proof to support the same was led by them. The wife of deceased Desa Singh in her cross examination admitted that she was married around 10-12 years back and at the time of their marriage her husband was aged about 25 years. She further admitted that at the time of death of her husband they were having two children, namely, Miss Seema and Lado. The learned Commissioner, assuming that the deceased was 25 years of age at the time of his marriage and having fathered two children by the time of his death, he must have been around 30 years of age. The assumption made by the learned Commissioner, in the circumstances appears to be extremely lenient

especially when no evidence qua the age of deceased was led by the claimants.

No other point has been raised.

For the reasons stated above,finding no merit in this appeal the same is hereby dismissed.

28.09.2017
joshi

(Jaswant Singh)
Judge

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No