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IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No.423 of 1999
Date of decision : January 24, 2017

Bhagwanti and another

....Appellants

Versus

Om Parkash and another

....Respondents

CORAM:- HON'BLE MR. JUSTICE G.S. SANDHAWALIA

Present : Mr. Jitender Dhanda, Advocate
for the appellants.

Mr. Rajesh K. Sharma, Advocate
for respondent No.2.

G.S. Sandhawalia, J.(ORAL),

Main appeal i.e. *FAO No.423 of 1999,* taken up with consent of parties.

A perusal of the paper-book would show that the case has been put up on account of non-service of respondent No.1 and for not impleading his legal representatives. It is to be noticed that vide order dated 23.01.2015 presence of respondent No.1 and his legal heirs was held not to be necessary. In these circumstances, service is to be treated as complete.

Challenge by the appellants, who are the legal heirs of Surinder, the deceased employee, is to the order dated 17.11.1998 of the Commissioner under the Workmen Compensation Act, 1923. Vide the said order, a sum of ₹1,30,146/- was held to be payable by respondent No.2-Insurance Company. The appellants, accordingly, claim enhancement of the said amount. A perusal of the order would show that deceased-Surinder was driving a jeep, which met with an accident on 12.04.1996 and accordingly, on account of the fact that he had died during the course of his employment, the claim was preferred.

It was stated by Ramji Lal, father, that his son was drawing wages of ₹2,000/- per month and he was 23/24 years old at the time of accident. One Jaswant Singh-AW2 supported the statement of the said appellant. The owner of the vehicle Om Parkash appeared as RW-1 and placed on record the insurance policy as Ex.R-1 and on account of the fact that there was a driving licence Ex.P-6 in favour of the deceased and FIR Ex.P-8 alongwith the postmortem report Ex.P-9 and in view of the admission that the deceased had died during the course of his employment, the amount was awarded i.e. ₹1,30,146/-. By keeping in mind the admission of the employer, the wages were treated as ₹1200/- on the basis of his statement and accordingly, the compensation was assessed as per the formula under the Act. In view of the fact that there was insurance policy, the liability was imposed upon the company.

Counsel for the appellants was not in a position to show anything from the record that there was any evidence as such before the Commissioner that the deceased was drawing wages to the tune of ₹2000/- as alleged on the basis of which the amount can be enhanced. The Commissioner, on the basis of the admission made by the employer, has assessed the amount after keeping the relevant factor in mind as per the provisions of the Act.

In the absence of any other material in the form of any salary certificate or other evidence as deposit in the bank account on regular basis, the oral statement as such of the claimants is not liable to be accepted.

Resultantly, it cannot be held that the order suffers from any infirmity which would warrant any interference as such.

Accordingly, there is no merit in the present case and the same stands dismissed.

(G.S. SANDHAWALIA)
JUDGE

January 24, 2017
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Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No