

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

206

FAO No.8488 of 2014 (O&M)

Date of decision: 06.04.2017

Meena & others

....Appellants

Versus

Om Parkash Gahlawat & others

...Respondents

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

Present: Mr.Ajay Shekhawat, Advocate, for the appellants.

Mr.Sanjiv Kumar, Advocate
and Mr.C.S.Panda, Advocate, for respondent No.1.

Mr.Pardeep Goyal, Advocate, for respondents No.2 & 3.

G.S. SANDHAWALIA, J. (Oral)

The appellant-claimants are in appeal under Section 30 of the Employees' Compensation Act, 1923, against the order dated 16.07.2013, passed by the Commissioner, whereby a sum of Rs.3,73,800/- has been awarded along with interest @ 12% from the expiry of one month from the date of accident, i.e., 21.03.2010. Apart from that, penalty of Rs.1,25,000/- was also imposed upon respondent No.1-employer, on account of non-deposit with the Commissioner, within the requisite period.

Counsel for the appellants has mainly tried to argue that the relevant factor applied was 186.90 and it should have been 189.56 and thus, submitted that the age of the deceased was 38 years, but has wrongly been taken as 39 years.

The said argument cannot be accepted. In a claim petition

itself, the age was mentioned of 39 years. It is not disputed that the date of birth of the employee is 03.04.1971 and therefore, the deceased had almost completed 39 years, since the accident was on 21.03.2010. Thus, the relevant factor has rightly been applied and also 39 years was the held out age. The only relief which can be granted to the claimants is the non-grant of the funeral expenses, as per Section 4(4) of the Act, since the same provides that the amount given should not be less than Rs.5000/-. The Commissioner having not awarded the said amount, thus, denied the said benefit to the claimants.

The argument of counsel for respondent No.1 that an amount of Rs.40,000/- was given, as such, to the widow, has already been rejected by the Commissioner, since the deposit was not made with the Commissioner and there was no proof, as such, that the amount had already been deposited.

Accordingly, the present appeal is partly allowed, with the direction that the respondents No.2 & 3-Insurance Company shall pay the additional sum of Rs.5000/-, within a period of 2 months from the date of receipt of the certified copy of this order.

06.04.2017
Sailesh

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No