

FAO No. 1649 of 1994 (O&M)

1

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

362

**FAO No. 1649 of 1994 (O&M)
Date of Decision : 21.2.2018**

SMT. JOGINDER KAUR AND OTHERS APPELLANTS

VS

SANT HARI SINGH AND ANOTHER RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr. Vinod K. Kanwal, Advocate for
Mr. Ashit Malik, Advocate
for the appellants.

Mr. Neeraj Khanna, Advocate and
Mr. Ravinder Arora, Advocate
for respondent No. 2.

AJAY TEWARI, J.(Oral)

This is an appeal on quantum on behalf of the claimants. The case of the claimants was that deceased was working as a cleaner and was earning Rs. 900/- per month and was also getting Rs. 30/- per day as daily allowance whenever he was traveling with the truck and died in an accident while on duty. The plea was taken that deceased was getting only Rs. 600/- per month and was not getting any daily expenses. Keeping in view the facts, the Commissioner took his income as per the minimum wages and fixed it @ Rs. 800/- per month. Learned counsel for the appellants has argued that the version of the truck owner was completely belied because it is well known fact the travelling allowances has to be given to any person who is travelling on behalf of

FAO No. 1649 of 1994 (O&M)

2

the employer. The second argument is that the Commissioner did not award penalty and even the interest was awarded conditionally in so much as, it is directed that in case amount is not deposited within 45 days the interest would be leviable. Learned counsel on behalf of the respondent-insurance company has argued that there is no scope for interfering with the quantum but has fairly accepted that conditional interest is not permissible in view of the judgment passed in “**Oriental Insurance Company Ltd. vs. Siby George (2012) 12 SCC 540**” As regards penalty also counsel for the insurance company states that if the penalty is awarded it would have to be in any case paid by the respondent No.1.

Looking into all the facts, I deem it appropriate to increase the income to Rs. 900/- per month. I also direct that interest would be payable from one month after the death till the date of disbursal. The respondent No.1 would further be liable to pay penalty amounting to 40% of the total compensation amount.

The appeal stands disposed of.

Since the main case has been decided, the pending C.M, if any, also stand disposed of.

21.2.2018
anuradha

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned	-	Yes/No
Whether reportable	-	Yes/No