

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

373

FAO No.1793 of 1995 (O&M)

Date of Decision : 20.03.2018

Man Singh

..... Appellant

Versus

Swaran Singh and another

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present :- Mr. V.B.Aggarwal, Advocate
for the appellant.

Mr. Santosh Sharma, Advocate
for Mr. Rohit Nagpal, Advocate
for respondent No.1.

Mr. Aseem Aggarwal, Advocate
for respondent No.2.

AJAY TEWARI, J. (Oral)

This appeal has been filed against the award dated 28.02.1995 of the Commissioner under the Workmen's Compensation Act, 1923 by the claimant seeking enhancement. Since a very limited point has been raised further detailed reference to the facts is not necessary.

The two arguments raised by the learned counsel for the appellant are that by an amendment in 1984, Section 4 was amended and as per that amendment, the relevant factor has to be multiplied by Rs.1,000/- and not by Rs.500/-.

Learned counsel for the respondents have argued that a reading of the amended provision does not indicate anything to this effect. Having

Pooja Sharma
2018.03.23 12:39 read the amended provision, I agree with the counsel for the respondents.
I am the author of this
document

As per the amended provision, the monthly wages of an employee who is earning more than Rs.1,000/- would be taken to be Rs.1,000/- and if a death occurs, 50% thereof has to be multiplied by the relevant factor. Consequently this argument is rejected.

The second argument of learned counsel for the appellant is that despite the fact that the respondents did not pay the compensation amount and rather resisted the same for a period of 4 years only 25% penalty was imposed and this was a case where the maximum penalty i.e. 50% should have been imposed.

Learned counsel for the respondents have defended the order and have stated that this in any case is not a question of law and an appeal could be allowed only on a question of law. In my opinion the Act being a beneficial legislation equity has to be considered by all the Courts. There is no justification for the Commissioner to have restricted the penalty to only 25%, I consequently enhance it to 50%. As per the law the penalty has to be paid by the respondent No.1.

Appeal stands disposed of accordingly.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

(AJAY TEWARI)
JUDGE

20.03.2018

Pooja sharma-I

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No