

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

**CWP-2574-2015 (O&M)
Date of decision: - 04.12.2018**

Kamla and others

....Petitioners

Versus

State of Haryana and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. R.S. Mamli, Advocate,
for the petitioners.

Mr. Ravi Dutt Sharma, Deputy Advocate General, Haryana.

Mr. Umesh Kumar Kanwar, Advocate
for respondents No.2 to 4 and 6 to 8.

HARSIMRAN SINGH SETHI, J. (ORAL)

Petitioners are challenging the order dated 11.12.2014 (Annexure P-8) being dissatisfied with the amount which has been paid to them under the provisions of the Employees' Compensation Act, 1923. Further, the case of the petitioners for the grant of family pension under the terms of Haryana Compassionate Assistance to the Dependents of the Deceased Government Employees Rules, 2006 (for short 'Rules of 2006'), was considered and rejected on the ground that Sh. Ram Nath son of Rachit Ram, was not a regular employee and hence, the petitioners are not

entitled for the benefits under the Rules of 2006.

The facts which emerges in the present case is that Sh.Ram Nath son of Rachit Ram, i.e. husband of petitioner No.1, father of petitioners No.2 & 3 and son of petitioner No.4, was engaged on DC rates against the post of Assistant Lineman in Yamunanagar on 20.10.2008. While working on daily wage basis, Sh. Ram Nath met with non-fatal accident while performing the duties and got injured. He sustained electric shock for which he remained under medical observation and treatment from the date of accident i.e. 17.09.2011 till 10.02.2013. Unfortunately, Sh. Ram Nath expired on 10.02.2013.

As the employees of the respondents were insured, the case was made for the release of insurance amount to the legal heirs of Sh. Ram Nath, but the claim was declined by the National Insurance Company.

After the claim was declined by the Insurance Company, case of Sh. Ram Nath was considered for compensation under the Employees' Compensation Act, 1923. After finding him eligible for the compensation, an amount of ₹5,11,917/- was sanctioned by the Chief Engineer, Panchkula, which was disbursed to the petitioners on 05.11.2014 and cheque No.334636 dated 13.11.2014 was given to them.

Counsel for the petitioners states that the amount which has been calculated by the respondents under the Employees' Compensation Act, 1923 is not correct and the petitioners are entitled for a higher amount. Apart from this, certain dues/amounts spent on the treatment of Sh. Ram Nath have not been reimbursed.

If the petitioners are not satisfied with the amount of compensation, the remedies are provided under the Act itself. They can file reference to the Commissioner under Section 19 of the Act, who can go into the objections of the parties with regard to the computation of the correct amount. The present petition is not maintainable at this stage for the reason that it is only after a decision of the Commissioner under Section 19 of the Act, an appeal will lie to the High Court under Section 30.

Faced with this situation, counsel for the petitioners states that the petitioners be given liberty to approach the competent authority under the Act for the redressal of grievance, which they are raising in respect of the grant of higher amount of compensation on account of death of Sh. Ram Nath.

With regard to the claim of the petitioners for family pension under the Rules of 2006, the petitioners have not been able to make out the case as to how they are entitled for the same. It is only the dependents of a regular employee, who were entitled for the benefits under the Rules of 2006. It is an admitted case, Sh. Ram Nath was working on daily wage basis with the respondents and the present case is not covered under the Rules of 2006 for the grant of any assistance.

Keeping in view the above, the petitioners are relegated to their remedy under the Employees' Compensation Act, 1923, if they feel aggrieved with regard to the grant of less compensation by the respondents under the said Act.

In case any proceedings are undertaken by the petitioners

before the competent authority under the Act, the same shall be decided on merits, dealing with each objection raised.

In view of the above, the present writ petition stands disposed of.

(HARSIMRAN SINGH SETHI)

JUDGE

December 04, 2018

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Whether reasoned/speaking?

Yes

Whether reportable?

No