

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

-.-

FAO 5323 of 2013 (O&M)
Date of decision: 20.12.2018

Rani and others

.....Appellants

versus

Surjeet Singh and another

.....Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present : Mr. H S Maan, Advocate
for the appellants

Mr. J S Chatrath, Advocate for
Mr. Ashwani Talwar, Advocate
for respondent No. 2

-.-

Rekha Mittal, J. (Oral)

CM 22756 CII of 2013

Prayer in this application is for condoning delay of 163 days in filing the appeal.

Heard.

In view of averments made in the application supported by an affidavit and arguments advanced, the application is allowed and delay of 163 days in filing the appeal stands condoned.

CM 22757 CII of 2013

Prayer in this application is for bringing on record legal heirs of Smt. Banto Devi mother of Rampal (since deceased).

Heard.

In view of averments made in the application supported by an affidavit and arguments advanced, the application is allowed and persons

mentioned in para 2 of the application are allowed to be brought on record as legal heirs of Banto Devi (since deceased) for the purpose of present *lis*.

Main case

The present appeal directs challenge against order dated 22.01.2013 passed by the Commissioner under the Employee's Compensation Act, Kaithal Circle (in short 'the Commissioner') whereby compensation has been assessed on account of death of Rampal, employed as driver with Surjeet Singh-respondent No. 1.

The Commissioner has assessed compensation of Rs.7,58,240.00, payable with simple interest @ 12% from the date of accident to the date of order which comes to Rs.1,76,289.00.

Counsel for the appellants has made two fold submissions, to assert for enhancement of compensation. It is argued that respondent No. 1 had admitted that the deceased was paid wage @ Rs.10,000.00 per month but the Commissioner has assessed wage at Rs.8,000.00. Another submission made by counsel is that the Commissioner did not decide the question of payment of penalty by the employer as he did not pay compensation within 30 days from the date of accident.

Counsel for the appellants, in response to order dated 10.12.2018 passed by this Court, is not in a position to cite a judgment that wage more than what is prescribed in the notification issued by the Central Government can be allowed. That being so, findings of the Commissioner to assess wage @ Rs.8,000.00 per month are liable to be affirmed.

Counsel for the appellant has failed to point out, if the Commissioner issued show cause notice to Shri Surjeet Singh-respondent

No. 1 for payment of penalty on account of his failure to pay compensation within 30 days, in compliance with the provisions of the Act. That being so, the appellants may file an appropriate application before the Commissioner for payment of penalty. Any such application filed by the appellants would be decided by the authority concerned, in accordance with law.

For the foregoing reasons, the appeal stands disposed of.

(Rekha Mittal)
Judge

20.12.2018
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