

In the High Court of Punjab and Haryana at Chandigarh

FAO- 7580 of 2014(O&M)
Date of Decision: 13.11.2018

Parveen Kumari

---Appellant

versus

Raj Karan and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: None for the appellant

Mr. Vinod Chaudhri, Advocate,
for the insurance company

Rekha Mittal, J.

The claimant is in appeal seeking enhancement of compensation assessed by the Commissioner under Employee's Compensation Act, 1923 (in short "the Act") whereby compensation to the tune of Rs. 4,15,960/- has been assessed, payable with interest @ 9% per annum with effect from one month after the accident in case the same is not paid within 60 days from the date of receipt of copy of order.

Counsel for the insurance company has supported the impugned order dated 19.4.2012 whereby income of the deceased has been assessed at Rs. 4000/- per month. After applying factor of 207.98 and 50% of salary compensation to the tune of Rs. 4,15,960/- has been assessed.

Perusal of the order impugned makes it evident that plea of the claimants including appellant is that deceased was working as cleaner on

JCB machine, owned by Raj Karan at salary of Rs. 7000/- per month. The owner and driver of JCB filed joint reply and admitted that deceased was working as cleaner on the JCB machine at monthly salary of Rs. 7000/-. The authority has assessed his income at Rs. 4000/- per month by taking into consideration provisions of the Workmen's Compensation Act, 1923 in force at the time of death of Bhag Singh.

There is no representation on behalf of the appellant earlier being represented by a counsel.

In the grounds of appeal, there is no reference to any precedent on the issue that under the Act, wage can be assessed more than what has been prescribed under the Act. Despite efforts, I have not been able to lay my hands on a judgment that either the Commissioner or the Court in Appeal can assess wage at the rate higher than statutorily provided. In the given circumstances, income of the deceased has rightly been assessed at Rs. 4000/- per month. That being so, claimants cannot sustain their plea for enhancement of compensation.

The Tribunal has allowed interest @ 9% per annum only in case the insurance company fails to pay compensation within a period of 60 days from the date of receipt of copy of order. No reasons have been assigned to extend this concession to the insurance company and denying interest to the claimants. That being so, claimants shall be entitle to simple interest @ 12% on the amount of compensation from the date of occurrence till realization. In this context, reference can be made to Judgments of Hon'ble the Supreme Court **Oriental Insurance Company Ltd. Vs. Siby George, 2012(4) RCR (Civil) 617** and **Saberabibi Yakubbbhai Shaikh and**

**others Vs. National Insurance Company Ltd. and others, 2014(1) RCR
(Civil) 731.**

In view of what has been discussed hereinbefore, the appeal is
partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

13.11.2018
PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No