IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH.

FAO No.5145 of 2018 (O&M)
Date of decision: December 11, 2018

The Manager, The New India Insurance Co. Ltd. ...Appellant

Versus

Smt. Gurmail Kaur and others ...Respondents

CORAM: **HON'BLE MR. JUSTICE RAJAN GUPTA**
Present: Mr. Pradeep Kumar, Advocate for the appellant.

Rajan Gupta, J.

Appellant New India Assurance Company Ltd. has impugned the award dated 14.06.2018, passed by Commissioner under the Employee's Compensation Act, 1923, Chandigarh, whereby compensation has been awarded to the claimant(s) on account of death of Sukhwinder Singh, who was murdered by some unidentified persons in the area of Muradabad.

Learned counsel for the appellant has argued that Commissioner has taken the salary of deceased to be Rs.8000/- per month, whereas claimants themselves claimed Rs.6300/- per month as his salary. According to him, it has come in evidence that deceased was paid salary of Rs.3553/- per month and this fact has been ignored by the authority.

I have heard learned counsel for the appellant and given careful thought to the facts of the case.

Sukhwinder Singh (now deceased), son of claimant No.1 and father of claimant No.2 was working as tractor driver with respondent No.3. He was deputed to deliver the tractor to dealer point at Pilibhit (U.P.). On 28.11.2010, when he reached near Muradabad, he was murdered by some unidentified persons. FIR No.501 dated 27.12.2010 was also registered in

Police Station Mudhapande in this regard. A claim application under the Employee's Compensation Act, 1923 was filed by the claimants. In support of their case, claimant No.1 examined herself and also tendered certain documents including copy of FIR, postmortem report, legal notice etc. However, during pendency of proceedings before the authority, claimant No.1 had expired on 24.5.2012. On appraisal of evidence, the Commissioner under the Act came to the conclusion that deceased was working with respondent No.3, who died during the course of his employment. As regards quantum of compensation, the authority observed that deceased was 53 years of age at the time of his death. He was getting salary of Rs.8000/- per month. The authority calculated the amount of compensation by applying factor of 8000/2 i.e. Rs.4000/- per month and claimants were held entitled to compensation of Rs.5,70,720/- (4000 x 142.68), alongwith interest @ 12% per annum from the date of death till actual realization and the appellant insurance company was directed to pay the aforesaid amount within 30 days from the date of order.

There appears to be no apparent error in appraisal of evidence by the tribunal. In my considered view, there is no infirmity with the findings arrived at by the Tribunal. The appeal is without any merit and is hereby dismissed.

(RAJAN GUPTA)
JUDGE

December 11, 2018
'Rajpal'

Whether speaking / reasoned Yes / No

Whether Reportable: Yes / No