

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

FAO No. 10007 of 2014(O&M)

Date of decision: 6.2.2019

Daya Chand

.....Appellant

VERSUS

Om Parkash and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Anhad S. Miglani, Advocate for
Mr. Ram Pal Verma, Advocate for the appellant.

Respondent No.1 already ex parte vide order dated 1.10.2015.

Mr. Vikas Mohan Gupta, Advocate for respondent No.2-
insurance company.

REKHA MITTAL, J. (Oral)

Daya Chand, one of the claimants and father of deceased Pardeep has filed the appeal seeking enhancement of compensation assessed by the Commissioner under the Employees' Compensation Act, 1923 (in short 'the Act'), Sonapat on account of death of Pardeep @ Tinku in an occurrence that took place on 16.10.2012.

The Commissioner has assessed compensation of Rs.6,33,812/- payable with interest at the rate of 12% per annum from the date of order i.e. 20.08.2013 in case the compensation is deposited within 30 days, detailed hereunder:-

Monthly wage of the deceased	Rs.5360/-
Admissible factor	As per age of 22 years
Interest from the date of petition to the date of order	Rs.40,540/-

Counsel for the appellant would argue that as per plea of the claimants, deceased was getting salary of Rs.6,000/- per month plus diet money of Rs.100/- per day but the Commissioner has assessed his wage at the rate of Rs.5360/- per month and the same is liable to be enhanced. No compensation has been paid in respect of funeral expenses. Interest at the rate of 12% per annum is liable to be paid from the date of occurrence in place of date of application.

Counsel representing the insurance company has supported impugned order with the submission that claimants have been sufficiently compensated. Om Parkash, alleged employer of the deceased did not join the proceedings, therefore, he has neither admitted nor denied the averments of the claim application with regard to employment and salary of deceased.

Counsel for the appellant has failed to point out any material on record to substantiate plea of the claimants with regard to salary at the rate of Rs.6000/- per month plus diet money of Rs.100/- per day. He has not denied that minimum wage of a skilled worker at the relevant time was not more than Rs.5360/- awarded in the present case. In the given circumstances, I do not find an error in assessment of income/wage of the deceased and the same is affirmed. The Commissioner has rightly computed compensation by allowing 50% of admissible wage and an appropriate factor on the basis of age of the deceased.

The Commissioner has awarded a sum of Rs.40,540/- towards interest w.e.f. 24.01.2013 to 20.08.2013. Claimant shall be entitle to interest at the rate of 12% per annum on the amount of compensation i.e. Rs.5,93,272/- assessed by the Commissioner from the date of occurrence.

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

Claimant shall be entitle to funeral expenses of Rs.2500/- and the same shall carry interest at the rate of 12% per annum from the date of accident till realization

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

FEBRUARY 6, 2019

'D. Gulati'

(REKHA MITTAL)

JUDGE

Whether speaking/reasoned :

yes/no

Whether reportable :

yes/no