

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

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FAO No.2278 of 2013 (O&M)
Date of decision: 26.02.2019

SAVINDER KAUR AND ANR.

... Appellants

Versus

SHOBHA RAM ETC.

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Rajeev D. Sharma, Advocate for the appellants.
Mr. Subhash Goyal, Advocate for the insurance company.

REKHA MITTAL, J. (Oral)

The claimants are in appeal seeking enhancement of compensation assessed by the Commissioner under the Employees Compensation Act, 1923 (in short 'the Act').

Counsel for the appellants would argue that income of the deceased assessed by the Commissioner @ Rs.4000/- per month is on lower side and needs to be enhanced in view of stand of the claimants and evidence adduced to establish their plea in this regard. Another submission made by counsel is that the Commissioner has not awarded penalty for failure of employer of the deceased to pay compensation within the stipulated period in consonance with the provisions of the Act.

The occurrence in question took place in October, 2009. Counsel for the appellants has not disputed that at the relevant time wage for the purpose of assessing compensation under the Act was provided statutorily @ Rs.4000/- per month. Counsel for the appellants has failed to cite any law or precedent that the Commissioner is competent to assess income more than prescribed by law. That being so, plea of the claimants for grant of compensation on the basis of wage more than Rs.4000/- per month

is not sustainable.

So far as contention with regard to non-grant of penalty, to be paid by employer of the deceased, nothing has been mentioned in the order impugned that a show case notice was issued to the employer calling upon him as to why the penalty should not be imposed for his failure to pay compensation within the stipulated period. As such, the claimants are left at liberty to file an appropriate application before the Commissioner for grant of penalty against respondent No.1 therein. In case such an application is filed by the appellants within two months, the same shall be decided by the Commissioner on merits, in accordance with law.

Disposed of accordingly.

As the appeal has been decided on merits, application for condonation of delay is of academic relevance only.

26.02.2019

ashok

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes / No
Yes / No