

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

-.-

FAO 1231 of 2015 (O&M)

Date of decision: 09.05.2019

Nisha and others

.....Appellants

Versus

M/s Decent Cargo Movers and another

.....Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

-.-

Present: Ms Bhawna Grewal, Advocate for
Mr. S K Yadav, Advocate
for the appellants

Mr. Sukhdarshan Singh, Advocate
for the respondent

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Rekha Mittal, J. (Oral)

The claimants are in appeal seeking enhancement of compensation assessed by the Commissioner, Circle Bhiwani under the Employee's Compensation Act.

The appellants have been awarded Rs.5,46,842/- towards compensation qua death of Sandeep Kumar, driver of Volvo Puller No. NL-02-G-5492, interest Rs.1,88,083/- with effect from 09.01.2012 till passing of the order and future interest @ 12% per annum in case the amount was not deposited within thirty days from the date of order impugned.

Counsel for the appellants would argue that the claimants produced salary certificate Ex P4 issued by M/s Decent Cargo Movers to the effect that Sandeep Kumar was working as driver on the vehicle in question

and he was paid salary at the rate of Rs.13,800/- per month for the period from 01.04.2011 to 22.09.2011. It is further argued that the employer of deceased did not contest proceedings nor adduced any evidence to challenge correctness of certificate Ex.P4. The insurance company did not lead any evidence to rebut evidence of claimants in regard to employment of the deceased with M/s Decent Cargo Movers at salary of Rs.13,800/- per month, therefore, compensation is liable to be assessed accordingly.

Counsel representing the insurance company, on the contrary, would urge that at the relevant time, the maximum wage that could be allowed by the Commissioner was Rs.8,000/- per month, therefore, plea of the claimants for assessing compensation at Rs.13,800/- per month is not sustainable.

Be that as it may, there is no dispute that the deceased was working as driver of Volvo Puller in question when he met with unfortunate occurrence on 20.09.2011. Taking into consideration the materials on record coupled with the maximum wage fixed in the notification issued by the Central Government under the Act, income of the deceased is assessed at Rs.8,000/- per month. Accordingly, the appellants shall be entitle to Rs.8,47,160/- (8,000 x 211.79 x 50%).

The appellants have been allowed interest @ 12% per annum with effect from 09.01.2012 till 21.11.2014. The future interest @ 12% per annum shall be payable only in case compensation and interest are not paid within 30 days. The order with regard to payment of interest is modified to the effect that compensation assessed by this Court shall carry interest @ 12% per annum with effect from 20.09.2011 till actual realization. In this context, reference can be made to judgment of Hon'ble the Supreme Court

Oriental Insurance Company Limited vs. Siby George and others, 2012
(4) R.C.R. (Civil) 617.

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

(Rekha Mittal)
Judge

09.05.2019
Mohan Bimbira

Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No