

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

FAO-3979-2014

Date of decision: 07.02.2019

SURINDER KUMAR AND ANOTHER

...Petitioner

Versus

DASHMESH STONE CRUSHER AND ANOTHER

...Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Ashwani Arora, Advocate
for the appellants.

Mr. Eklavya, Advocate
for respondent No.1

None for respondent No.2.

REKHA MITTAL, J. (Oral)

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

The Commissioner has awarded Rs. 5,53,425/- detailed hereinunder.

- | | |
|---------------------------------|-----------|
| 1. Monthly wage of the deceased | Rs.5000/- |
| 2. Factor | 221.37 |

Counsel for the appellant would argue that as deceased was driver on tipper bearing No. PB-12-M-8938, his income is liable to be assessed at Rs. 8000/- per month. In support of his contention, he has relied upon judgement of Hon'ble the Supreme Court **Jaya Biswal & Others Vs.**

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Branch Manager, Iffco Tokio General Insurance Company Ltd. & another 2016 ACJ(SC) 601. Further reference has been made to judgment **Ram General Insurance Company Ltd. Versus Ishraq & Others 2015(2) Law Herald 1728.** In addition, it is argued that interest has been allowed only in case compensation is not paid within 60 days from the date of receipt of copy of order but the claimants are entitle to interest from the date of occurrence.

Counsel representing the insurance company has supported findings of the Commissioner with regard to income assessed on the basis of minimum wage available at the relevant time.

Indisputably, the deceased was a driver on tipper which is a heavy goods vehicle/transport vehicle. Counsel for the appellant would inform that the vehicle had permit to ply only in the State of Punjab. Taking into consideration the minimum wage available to a driver coupled with the judgments relied upon, in my considered opinion, income of the deceased can be assessed at Rs. 7,000/- per month. Accordingly, compensation is calculated at Rs. 7,000/- X 221.37 X 50%=7,74,795/-.

Claimants shall be entitled to interest from the date of accident as the Commissioner has not assigned any reason to deny interest from the date of accident or extending concession to the respondents therein to escape liability to pay interest in case compensation is paid with 60 days from receipt of copy of order. 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**

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**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.

07.02.2019

sanjiv

**(REKHA MITTAL)
JUDGE**

Whether speaking/reasoned:
Whether reportable:

Yes / No
Yes / No