

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

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Date of decision: 29.01.2019

FAO-4752-2016 (O&M)

NATIONAL INSURANCE COMPANY LTD

... Appellant

Versus

KRISHANA DEVI & ORS

... Respondents

FAO-6539-2016 (O&M)

KRISHANA DEVI & ANR

... Appellants

Versus

M/S VISHWAHIND LOGISTICS LTD. AND ORS.

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. D.P. Gupta, Advocate for the insurance company.
Mr. Vivek Khatri, Advocate for the claimants.

REKHA MITTAL, J. (Oral)

This order will dispose of FAO Nos.4752 and 6539 of 2016 as these have emerged out of the same award dated 03.05.2016 passed by the Commissioner under the Employees Compensation Act, 1923 whereby compensation has been assessed in regard to death of Daljeet @ Jagjit, driver of vehicle No.HR38Q/5177 under employment of M/s Vishwahind Logistics Ltd., Faridabad.

FAO No.4752 of 2016 has been filed by the insurance company whereas the other appeal has been preferred by the claimants seeking enhancement of compensation.

Counsel for the insurance company would inform that the appeal has been preferred to assail quantum of compensation as well as on the question of driving licence possessed by the deceased.

The Commissioner has awarded compensation of Rs.8,47,160/-, payable with interest @ 12% per annum from 10.11.2013 till actual realisation. The wage of the deceased has been assessed @ Rs.8000/- per month but the Commissioner has not mentioned the factor applied for computing compensation to the tune of Rs.8,47,160/-.

Claimants have raised a plea that deceased was drawing salary

of Rs.15,000/- per month while working as driver with M/s Vishwahind Logistics Ltd. The employer filed reply and stated that he (deceased) was a driver at salary of Rs.4000/- per month. The Commissioner assessed wage @ Rs.8000/- per month.

A relevant extract from the order, reads as follows:-

In view of the discussions made above and the documents placed on record file by the parties, it is proved on record file that Daljeet @ Jagjit since deceased age 28 years was employed as driver on a monthly salary of Rs.8000/- and died due to accident which occurred out of and during the course of his employment so in the ratio of following case law relied upon by the learned counsel for the applicants-

2005 ACJ 1384, 2007(3) LLJ 289, 2007(1) TAC 341, 2008 ACJ 942 and 2012 ACC 410

the applicants being dependents of deceased under Section 2(d) of the Act are entitled to receive the compensation to the tune of Rs.8,47,160/- as per the formulae under Section 4(1)(a) of the Act along with interest @ 12% per annum from 10.11.13 upto the date of actual payment under Section 4A(3)(a) of the Act.

No reasons have been assigned by the Commissioner that weighed in its mind to record aforesaid findings particularly wage as Rs.8000/- per month. He has not even specify the factor applied for computing compensation. The order is sketchy and bereft of reasoning, therefore, cannot be allowed to sustain and liable to be set aside and the matter needs remittance to the Commissioner for deciding all the issues afresh.

In view of what has been discussed hereinbefore, the appeal is allowed. The impugned order is set aside and the matter is remitted to the Commissioner for decision on all the issues afresh. The insurance company would be entitle to raise the issue of driving licence and the claimants may press for their claim for payment of penalty by the employer. Parties through their counsel are directed to appear before the Commissioner on 14.02.2019. He would complete the entire exercise within four months of the parties putting in appearance.

29.01.2019

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(REKHA MITTAL)

JUDGE

Whether speaking/reasoned:

Yes / No

Whether reportable:

Yes / No