

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

**RSA No.2493 of 2016 (O&M)
Date of Order:07.02.2019**

**Raghubir Singh (since deceased) through his LRs
and another**

..Appellants

Versus

Gurpal Singh and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Ishan Gupta, Advocate,
for the appellants.

Mr. Jitender Singla, Advocate,
for respondent no.1

Ms. Swati Arora, Advocate, for
Mr. Ashwani Talwar, Advocate,
for respondent no.2-Insurance Co.

ANIL KSHETARPAL, J (Oral)

Defendants-appellants who are parents of the deceased (grand parents of the plaintiff) have withdrawn the entire compensation payable under the award passed by the Commissioner under the Workmen's Compensation Act, 1923 (now Employee's Compensation Act, 1923). The plaintiff-respondent is son of the deceased Gurcharan Singh @ Charan Singh.

First appellate court has ordered that since the plaintiff is Class-I heir along with his mother of the deceased and therefore, the plaintiff is entitled to 1/3rd share in the amount awarded in accordance with Section 8 read with Schedule to the Hindu Succession Act, 1956.

Learned counsel for the plaintiff-respondent has pointed out

that the payment in execution of the decree has already been released.

Learned counsel for the appellants submits that only parents of the deceased i.e. the appellants herein had filed claim petition which was allowed. Hence, he submitted that since no claim petition was filed by the plaintiff-respondent (son of the deceased), therefore, he is not entitled to any amount. He further submits that the jurisdiction of the Civil Court is barred in view of Section 19 of the Employee's Compensation Act.

This court has considered the submissions, however, find no substance therein.

As regard first argument, the award passed in the claim petition is on account of death of the workmen, namely, Gurcharan Singh @ Charan Singh. Such compensation is to enure for the benefit of Class-I heirs as per Hindu Succession Act, 1956. Plaintiff-respondent, being son, is one of the Class-I heir.

As regard second argument, on careful reading of Section 19 of the Employee's Compensation Act, it is apparent that the jurisdiction of the Civil Court is barred on the questions which are to be decided by the authority/Commissioner under the Act. The inter-se apportionment of the amount does not fall within the scope of Employee's Compensation Act, 1923.

In view thereof, this court does not find any good ground to interfere.

The regular second appeal is dismissed.

February 07, 2019
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned
Whether reportable

: Yes/No
: Yes/No