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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Decided on: 17.07.2019*

\+ **MAC.APP. 987/2018 & CM No.46761/2018**

ANITA DEVI & ORS ..... Appellants

Through: Mr. P.C. Dogra, Advocate.

Versus

VEER PAL & ORS (UNITED INDIA INSURANCE CO LTD) ..... Respondents

Through: Mr. Pankaj Seth, Advocate for Respondent No.3.

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

NAJMI WAZIRI, J. (Oral)

1. This appeal impugns the award of compensation on the ground that compensation was not awarded on the basis of the Salary Certificate produced apropos the employment of the deceased. It is the appellant's case that the deceased, a graduate, was employed by one Iqbal Singh, an agent of EXL India Co., a franchisee of Jaipur Golden Transport Co., and Iqbal Singh had issued Salary Certificate on his letter head, stating as under:-

> *"THIS IS TO CERTIFIED (sic) THAT MR. VINOD PURI SON OF SHRI RAMESH PURI RESIDENT OF ; HOUSE NO. B-122, BLOCK-B, RAJA VIHAR, BADLI DELHI-110042, WAS WORKING AS "MANAGER" IN OUR ABOVE MENTIONED OFFICE.*

WE ALSO CERTIFY THAT HE WAS DRAWING A SALARY OF RS.18,000/- + 4500/- AS PERKS, PER MONTH WITH ALL EXPENSES FROM OUR FIRM AS A SALARY."

2. He has also relied upon vouchers of eight day of May, June, July, August, September, October and December of 2013 and similarly of January, March, April, etc. of 2014 showing salary at the rate of Rs.22,500/- per month being paid to the deceased-Vinod Puri. However, none of these vouchers bear any serial number although a printed space has been provided for the same on the vouchers. Furthermore, corresponding Ledger Entries or Cash Book entries, have not been produced by the alleged employer Mr. Iqbal Singh. Interestingly, the said Iqbal Singh is stated to have employed 10 other persons, which would mean that his expenses would be in the range of Rs.2.5 lacs to Rs.3 lacs per month towards salary of staff and fixed costs, as he was an agent of his parent company engaged in the transport business. It, in effect, would mean that his annual expenditure would be in the range of Rs.36 lacs and his turnover would be not less than Rs.50 lacs to Rs.60 lacs. That being the position, he must be an income-tax payee and his ITRs ought to have been produced and/or other documents to show that the deceased was actually employed by Mr. Iqbal Singh. There being no reasonable proof of the employment, the minimum wages applicable to a graduate in Delhi as on 08.06.2014, i.e. Rs.11,310/- per month, were made applicable by the learned Tribunal for calculating the loss of dependency.

3. The learned Tribunal has reasoned as under:-

"20. After considering the rival submissions made on behalf of both the sides in the light of evidence, ocular as well as documentary, brought on record, I find substance in the submissions made on behalf of insurance co. No doubt, PW3 is

the employer of deceased and he not only deposed that deceased was working as Manager with him and was being paid monthly salary of Rs. 22,500/- and also produced Salary Certificate (Ex. PW3/1) in this regard. Not only this, he also produced original salary vouchers for one whole year from 08.05.13 till 08.05.14, which show that deceased Vinod Puri was being paid monthly salary of Rs. 22,500/- in cash. However, the authenticity and genuineness of these salary vouchers are not free from doubt, in the backdrop of the fact that when cross examination of PW3 was being deferred from production of Income Tax record showing payment of salary to deceased, he showed his inability to produce the said record. As already noted above, PW3 testified that neither any appointment letter was issued to deceased nor he maintained any attendance register of the employees. He also did not show salary vouchers in his cash book and could not offer any reason for non-mentioning of serial number in any of aforesaid salary vouchers. It is also relevant to note that PW3 failed to produce balance sheet or profit and loss account or cash book showing that he had actually paid salary @ Rs. 22,500/- per month to deceased during his life time. In these facts and circumstances, I am of the view that the testimony of PW3 does not inspire confidence and hence, same is not being taken into consideration in order to accept the monthly income of deceased to be Rs.22,500/-.

21. Nevertheless, the claimants have filed photocopies of documents concerning educational qualification of deceased (which are Ex.PW1/4 to Ex. PW1/8). Same would show that deceased had completed his graduation degree course from SHRIDHAR UNIVERSITY, Pillani, Rajasthan. Thus, his monthly income is being taken as that of graduate as per Minimum Wages Act applicable during the period in question. The Minimum Wages of an (sic) graduate under Minimum Wages Act applicable in Delhi as on 08.06.14 were Rs. 11,310/- per month.”

4. From the aforesaid, it is quite clear that the learned Tribunal has considered every aspect of the contention regarding the alleged employment

of the deceased by Iqbal Singh, but in the absence of the supporting material and accounts apropos the employment and payment of salary, the same was rightly rejected. The reasoning for and conclusion arrived at in the impugned order is cogent, and logical and cannot be faulted with, especially because there is no proof that the deceased was actually employed at a salary of Rs.22,500/- per month by Mr. Iqbal Singh. Therefore, the minimum wages applicable to a graduate were rightly applied.

5. The appeal is without merit. Therefore, it is dismissed alongwith pending application.

NAJMI WAZIRI, J.

JULY 17, 2019
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