

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

FAO-8277-2015

Date of Decision: February 19, 2020

Sita and another

...Appellants

Versus

Jagat Singh and another

...Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL.

Present: None for the appellants.

Mr. Satpal Dhamija, Advocate, for respondent No. 2.

REKHA MITTAL, J. (ORAL)

The claimants are in appeal seeking additional compensation on account death of Desh Raj, a driver on truck No. HR-67-6314, owned by Jagat Singh, respondent No. 1.

The Commissioner under the Employee's Compensation Act awarded compensation of Rs.4,07,700/- with interest @ 12% per annum for two years, amounting to Rs.97,848/-. The Insurance Company was directed to deposit Rs. 5,05,548/- towards compensation and interest within 60 days, failing which further interest @ 12% per annum shall be payable on the compensation amount.

The plea of claimants is that deceased was working at monthly salary of Rs.6,000/- plus Rs.150/- per day as DA when he used to remain out of station. There is no documentary evidence on record with regard to wage of the deceased. However, it has been proved that he was working as a truck driver under Jagat Singh-respondent No. 1. Taking a clue from notification issued by the State of Haryana, fixing minimum wage at the

relevant time, coupled with materials on record, wage of the deceased is assessed at Rs.6,000/- per month. Though there is no clear evidence on record as to how many days in a month the deceased had been staying away from the place of his work, on an average, claimants are extended benefit of Dearness Allowance @ Rs.100/- per day for a period of 10 days in a month. Accordingly, monthly wage of the deceased is assessed at Rs.7,000/-. After applying the criterion adopted by the Commissioner, compensation is computed at Rs.7,13,475 (203.85 X 7000 X 50%).

The Commissioner has allowed interest @ 12% per annum for a period of two years out of span of more than four years with the observations that claimants consumed about two years to conclude the evidence. However, nothing has been held that delay in conclusion of evidence is attributable to them. This apart, compensation found payable to the claimants was utilised by the Insurance Company until paid. In the given circumstances, claimants shall be entitle to interest @ 12% per annum w.e.f. 17.04.2010 till actual realization of compensation amount of Rs.7,13,475/-, irrespective of whether the Insurance Company has deposited the compensation assessed within 60 days or otherwise.

Accordingly, the appeal is partly allowed in the aforesaid terms.

(REKHA MITTAL)
JUDGE

February 19, 2020

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Whether Speaking/Reasoned: YES / NO

Whether Reportable: YES / NO