

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

234

FAO-6446-2017 (O&M)

Date of decision: 10.01.2020

RUMA DEVI & ORS

... Appellants

Versus

AKLESH & ANR

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Sushil Bhardwaj, Advocate for the appellants.
Mr. Pradeep Kumar, Advocate for the insurance company.

REKHA MITTAL, J. (Oral)

The claimants are in appeal seeking additional compensation on account of death of Satish Kumar, driver of vehicle No.HR-26-GA-3565 during the course of employment.

The Commissioner under the Employees Compensation Act, Karnal awarded Rs.5,31,362/- towards compensation and Rs.5000/- for funeral expenses i.e. total Rs.6,63,889/- including interest of Rs.1,27,527/-, ordered to be paid within 30 days failing which it shall carry interest @ 12% per annum.

Counsel for the appellants would argue that as per allegations raised in the claim application, the deceased was getting salary of Rs.10,000/- per month and the said fact was admitted by respondent No.1 therein, owner of the aforesaid vehicle. It is further submitted that as the deceased was driver of a transport vehicle, his income may be assessed @ Rs.10,000/- per month.

Counsel representing the insurance company, on the contrary, has supported assessment with the submission that claimants failed to adduce cogent evidence with regard to salary of the deceased. It is further argued that Aklesh, owner of the vehicle did not appear in the witness box with an opportunity to the insurance company to cross examine him on the aspect of salary of the deceased. In addition, it is argued that Commissioner otherwise is not competent to assess wage at a rate higher than Rs.8000/- per month.

I have heard counsel for the parties, perused the paper book

particularly the impugned order.

Indisputably, the deceased was driver of a transport vehicle i.e. truck No.HR-26-GA-3565 under respondent No.1 therein. There is no documentary evidence on record with regard to salary of the deceased. Taking a clue from notification issued by the State of Haryana fixing minimum wage at the relevant time, income of the deceased is assessed at Rs.6500/- per month and accordingly, compensation is assessed to the tune of Rs.5,60,690/- ($172.52 \times 6500 \times 50\%$). In this manner, claimants shall be entitle to additional amount of Rs.29,328/- ($5,60,690 - 5,31,362$) towards compensation payable with interest @ 12% per annum w.e.f. expiry of 30 days from the date of accident till realization.

The appeal is partly allowed in the aforesaid terms.

10.01.2020

ashok

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned:

Yes / No

Whether reportable:

Yes / No