

FAO-5646-2013 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO-5646-2013 (O&M)

Date of Decision:- 08.08.2023

SUDESH SONI & ORS

....Appellants

Versus

JASWANT SINGH & ANR

...Respondents

CORAM:- HON'BLE MS. JUSTICE AMARJOT BHATTI

Present:- Mr. Raman Mahajan, Advocate for the appellants.

Mr. Gourav Nagar, Advocate for
Mr. Dinesh Nagar, Advocate for respondent No.1.

Mr. R.K.Bashamboo, Advocate for respondent No.2.

AMARJOT BHATTI, J.

As per the facts of the case Sudesh Soni and others filed present appeal against impugned award dated 01.08.2013 vide which they have been granted compensation to the tune of Rs.7,12,418/- along with interest as detailed therein. Feeling aggrieved of this award, present appeal has been filed along with application under Order 41 Rule 27 of CPC read with Section 151 of CPC seeking permission to lead additional evidence.

It is submitted that the deceased victim was working as a Regional Manager with Kludirrak India Pvt. Ltd. Mumbai with a monthly salary of Rs.75,000/-. The documents Form No.16 Ex.P-7, appointment letters Ex.P-8 and P-9, salary slip Ex.P-10 were tendered into evidence. However, while passing the award the aforesaid documents were rejected

and the compensation was assessed by treating him as a daily wager by assuming his salary Rs.3,862/- prevailing in the year 2009. The present applicant wants to examine official from the office of Kludirrak India Pvt. Ltd. as witness to prove the aforesaid record including certificate of Kludirrak India Pvt. Ltd. Ex. P-1. The aforesaid record is necessary to be proved for the purpose of granting just compensation to the appellants. It is prayed that the case may be remanded back to the learned Tribunal to decide the case afresh after allowing to lead additional evidence pertaining to the aforesaid documents.

The application is not opposed by learned counsel for the Insurance Company. It is pointed out that in case any witness is examined to prove the aforesaid documents, they will get an opportunity to cross-examine the witness, therefore, he has no objection if the case is remanded back to the learned Tribunal.

I have considered the arguments and have gone through the record along with the present appeal. The application for additional evidence has been filed to examine official from the office of Kludirrak India Pvt. Ltd. to prove the documents i.e. the certificate Ex.P-1 along with other documents Ex.P-7 to Ex.P-10 in order to prove the income of deceased victim. The aforesaid documents are material to assess the income of deceased and it is going to affect the quantum of compensation awarded by the learned Tribunal. Since the learned counsel for Insurance Company has given his no objection to the application and the prayer to remand the case before the learned Motor Accident Claims Tribunal, Chandigarh. Therefore, finding merits in the application the same is allowed. The case is remanded back to the successor court of learned

Motor Accident Claims Tribunal, Chandigarh for fresh decision after allowing the appellants to lead additional evidence by examining official of Kludirrak India Pvt. Ltd. to prove the record Ex.P-1, P-7 to P-10. Since, the case is old one the learned Motor Accident Claims Tribunal, Chandigarh is directed to record additional evidence and to decide the case afresh within three months.

Learned counsel for the appellants as well as learned counsel for Insurance Company are directed to appear before the successor court of learned Motor Accident Claims Tribunal, Chandigarh on 28.08.2023.

Copy of this order be sent to the court concerned for compliance.

The copy of record received from the Tribunal be sent back to the concerned quarter.

Pending application(s) if any, also stands disposed of.

08.08.2023
Sunil Devi

(AMARJOT BHATTI)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No