

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

116

CWP-27393-2023

Date of decision: 06.12.2023

SUBE KHAN AND ANOTHER

.....Petitioners

VERSUS

UTTAR HARYANA BIJLI VITRAN NIGAM AND OTHERS

.....Respondents

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present:- Mr. Ketan Antil, Advocate
for the petitioner.

VINOD S. BHARDWAJ, J. (Oral)

The present writ petition has been filed for seeking issuance of directions to the respondents to enhance the amount of compensation as awarded vide speaking order dated 13.07.2023 (Annexure P-8) and also against order No. 475 dated 14.03.2019 (Annexure P-9) addressed to the petitioners for sanction of compensation on account of death of their son namely Mohd. Zunaid (since deceased) by way of electocution.

Learned counsel appearing on behalf of the petitioners contends that the respondents have awarded compensation vide order dated 13.07.2023 (Annexure P-8) and sanctioned vide order No. 475 dated 14.03.2019 (Annexure P-9) on account of death of Mohd. Zunaid (since deceased) son of the petitioners, which is stated to be inadequate and insufficient.

He however, does not dispute the fact that the compensation was required to be awarded by the respondents under Clause 11 of the policy dated 18.05.2017, then in force, as per which the compensation was to be assessed as per the provisions of the Employees Compensation Act, 1923 or a sum of Rs. 1,20,000/-, whichever is higher.

Learned counsel appearing on behalf of the petitioner contends that they were not granted adequate opportunity by the authorities to establish income of the deceased Mohd. Zunaid and the manner in which such income was to be computed. He submits that if a chance is given to the petitioner, he would adduce sufficient evidence and establish the position in law to the authorities concerned about computation of compensation in case of a minor and that in such an eventuality, the petitioner would be entitled to a compensation higher than the compensation awarded by the respondents.

Notice of motion.

Mr. Vivek Saini, Advocate appears and accepts notice on behalf of respondents No.1 to 4-UHBVNL.

Learned counsel appearing on behalf of respondent-Distribution Licensee fairly submits that the petitioner had been granted an opportunity to adduce evidence for establishing income and also the manner in which income of deceased Mohd. Zunaid may be computed. However, they failed to lead any evidence. Compensation was thus disbursed as per the provisions of the policy applicable to the petitioner and the sum of Rs. 1,20,000/-, being higher of the two, was ordered to be released. He further submits that the aforesaid

compensation is in the nature of an ex-gratia financial assistance and does not prohibit the petitioner from pursuing his remedies before the Civil Court, and to establish that he is entitled to a higher claim . Determination of such amount and assessment of compensation would then require leading of evidence and cannot be decided in a writ petition. He, however, fairly submits that the distribution licensee has no objection to reconsider the case of the petitioner in case he is in a position to lead evidence to the satisfaction of the authorities concerned that the income of deceased Mohd. Zunaid could be computed at any rate higher than awarded and that on proving of the same to the satisfaction of the authorities the petitioner would be entitled to higher compensation.

Counsel for the petitioner submits that he would be satisfied at this juncture if the authorities grant him opportunity to lead his evidence/document & establish his entitlement to a higher compensation.

Having heard learned counsel for the parties, the present writ petition is allowed by setting aside the orders dated 13.07.2023 (Annexure P-8) and order No. 475 dated 14.03.2019 (Annexure P-9) with the consent of the parties. The petitioner may, if so advised, appear before the respondent no.2 and furnish evidence, as per law, to establish the evidence and documents alongwith law for computation of income of deceased Mohd. Zunaid. Upon consideration of such evidence, the respondent authorities shall thereafter pass an appropriate order in terms of the policy dated 18.05.2017 which was in force at the time of incident. The petitioner shall appear before the

respondent-authorities on 15.01.2024 for further proceedings.

(VINOD S. BHARDWAJ)
JUDGE

DECEMBER 06, 2023

Vishal sharma

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