

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

FAO No.3154 of 1999
Date of Decision: 20.02.2024

Sushila @ Sheela Devi and another

... Appellants

Versus

Smt. Sudershan Kumari and another

...Respondents

CORAM: *HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA*

Present:- Mr. Maneet Kaushik, Advocate appearing for
Mr. Ashit Malik, Advocate
for the appellants.

Service of notice upon respondent No.1
has been dispensed with.

Mr. Suvir Deewan, Advocate
for respondent No.2-Insurance Company.

MEENAKSHI I. MEHTA, J.

Feeling aggrieved and dis-satisfied with the Award as passed by the Commissioner under the Workmen's Compensation Act, 1923, at Karnal (for short 'the Competent Authority') on 10.05.1999, whereby the appellants-claimants (here-in-after to be referred as 'the claimants') have been granted compensation to the tune of Rs.1,84,170/-, along-with interest thereon @ 12% per annum from the date of filing of the Claim Application, on account of the death of their son named Devinder Kumar in an accident, they (claimants) have chosen to prefer the instant appeal for seeking the enhancement of the amount of compensation.

2. Bereft of the unnecessary details, the facts, as emanating from the perusal of the record and resulting in the filing of the present appeal, are that the claimants filed a Claim Application for seeking compensation of Rs.05 (five) lac from respondent No.1-employer and respondent No.2-Insurance Company (insurer), while averring that their above-named son (since deceased) had been working with respondent No.1 as the 2nd driver on his Truck bearing registration No. HR-02A-9065 and on 23.07.1997, when he (deceased) was going in the afore-said Truck, during the course of his employment as such, a Tanker collided with the same (Truck) and he sustained multiple injuries in this accident and died instantaneously. He was 21 years old at the time of his death and had been drawing the wages @ Rs.2500/- per month, besides an amount of Rs.50/- as daily allowance. Both the respondents filed their separate written-statements, contesting the claim of the claimants therein, on various grounds. Then, the parties were put to the trial by framing the issues and after appreciating and evaluating the evidence, as adduced by them on the record and hearing their counsel, the Competent Authority has allowed the above-referred Claim Application and has granted compensation to the claimants vide the impugned Award, as already indicated in the opening para of this judgment.

3. I have heard learned counsel appearing for the appellants-claimants and learned counsel for respondent No.2-Insurance Company in the instant appeal and have also perused the record carefully.

4. Learned counsel appearing for the claimants refers to Exhibit A-1, i.e the copy of the School Transfer Certificate of the deceased and

points out that his (deceased's) date of birth has been mentioned therein as 07.05.1978 and contends that the afore-referred document makes it explicit that the deceased had completed the age of 19 years just about 2½ months before his death on 23.07.1997 but the Competent Authority fell in grave error in working out the amount of compensation, by considering him to be 40 years old at that time, as wrongly shown in Exhibit A-9, i.e the copy of his post-mortem report (PMR) and he further contends that the claimants have been awarded interest from the date of filing of the Claim Application whereas it should have been granted from the date of the above-mentioned accident itself and therefore, the claimants are entitled to the enhancement in the amount of compensation accordingly.

5. Per contra, learned counsel for respondent No.2-Insurance Company argues that while passing the impugned Award, the Competent Authority has taken all the material aspects of the matter, into consideration and hence, the present appeal deserves dismissal.

6. So far as the contention regarding the age of the deceased at the time of his death in the afore-referred accident, is concerned, as per his School Transfer Certificate Exhibit A-1, he would have been 19 years old at that time, as discussed earlier but it is pertinent to mention here that in para No.5 in their Claim Application, the claimants have disclosed his age as 21 years and this discrepancy makes the correctness of the date of birth of the deceased, certified/recorded in Exhibit A-1, highly doubtful. Further, though in the copy of his (deceased's) PMR Exhibit A-9, his age has been mentioned as 40 years but it is again worth-while to point it out here that in

its column No.3, as meant for reporting the condition of the dead-body, the concerned Doctor has specifically described the same (dead-body) as that of a “*well-built adult male of about 30 years of age by appearance*”. In these circumstances, this Court is of the considered opinion that it would be appropriate and expedient to determine/consider the age of the deceased as 30 years at the relevant time, as reported by the Medical Expert in the PMR Exhibit A-9, for the purpose of calculating the amount of compensation and when so calculated, the net enhanced amount of compensation, as payable to the claimants, comes out to be as under:-

Amount of compensation= Rs.2000/2x207.98= Rs.2,07,980/-

Net enhanced compensation= Rs.2,07,980-1,84,170=Rs.23,810/-

7. As regards the contention qua the correct date from which the interest on the amount of compensation had become payable, the verdict, as rendered by the four Judges’ Bench of the Apex Court in **Pratap Narain Singh Deo vs. Shrinivas Sabata and another, 1976 AIR (SC) 222** to the effect that “*the employer became liable to pay the compensation as soon as the personal injury was caused to the workman by an accident which admittedly arose out of and in the course of the employment*”, clinches this controversy and in view of these observations, it becomes crystal clear that the liability of the employer to pay the compensation and the corresponding entitlement of the claimants, had commenced from the day of the accident itself but since the employer had not paid the same to them (claimants) accordingly, therefore, they are entitled to the interest on the amount of compensation, from the date of the above-said accident.

8. As a sequel to the fore-going discussion, the appeal in hand is, hereby, allowed to the effect that the appellants-claimants are entitled to the net enhanced compensation amounting to **Rs.23,810/-**, over and above the amount of Rs.1,84,170/-, as already awarded to them by the Competent Authority, along-with the interest @ 12% per annum on the total amount of compensation, from the date of the accident till the actual payment.

20.02.2024
pooja

(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned: Yes
Whether Reportable: Yes