



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

FAO-3365-1999 (O&M)

Date of decision : 16.10.2024

SMT.PINKI DEVI

....Appellant

Versus

MAMO & ORS.

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : None for the appellant.

Mr. Suman Jain, Advocate and
Mr. Man Mohan, Advocate for respondent No.2.

PANKAJ JAIN, J. (ORAL)

Challenge is to the award passed by the Commissioner dated 10th of September, 1999 under the Workmen's Compensation Act, 1923 (hereinafter referred to as 'the Act of 1923')

2. Claimants filed claim petition on account of death of deceased Naresh. Pleaded case of the claimants is that Naresh was employed with respondent No.1 as helper-cum-chowkidar. On 18th of November, 1996 while performing duties, Naresh met with an accident and died.

3. Claim petition was resisted by the employer on the ground that deceased Naresh died while operating the generator and the said generator was insured with respondent No.2. Thus, respondent/Insurance Company is liable to pay compensation.

3. On the basis of the pleadings of the parties, following issues were framed:

- “1. Whether the deceased Naresh was in the employment of the respondent No.1?
2. Whether the claim is time barred?
3. Whether the deceased died in the accident which arose out of and during the course of his employment with the respondent No.1?
4. Whether the applicants are entitled to the amount as claimed in the claim-application, if so, what amount and by whom?
5. Relief.”

4. The Commissioner answered all the issues in favour of the claimants and held respondent/Insurance Co. liable to pay compensation of Rs.1,67,032/- along with interest @ 12% per annum to the claimants from the date it falls due upto the date of actual realization.

5. I have heard counsel for the parties and have gone through records of the case.

6. Today none has come present on behalf of the appellants.

7. Facts are not much in dispute. In the present case, the employer admitted the fact of ‘employer and employee’ relationship as well as death of deceased during the course of employment.

8. In view of above, the award is modified to the extent that the appellant is held to be entitled to penalty which shall be 50% of the amount of compensation in terms of Section 4A of the Act of 1923 alongwith interest @ 12% per annum to be calculated for the period commencing from

18th of December, 1996 till the date of actual realization.

- 9. The penalty shall be payable by respondent No.1 the employer.
- 10. The present appeal is accordingly disposed off in the aforesaid terms.
- 11. Pending application(s), if any, shall also stand disposed off.

October 16, 2024		(Pankaj Jain)
Dpr		Judge
Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No