

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

FAO No.845 of 2001
Date of Decision: 15.02.2024

Sunita & others
...Appellants
Versus
Suresh Kumar & another
...Respondents

CORAM: HON’BLE MRS. JUSTICE MEENAKSHI I. MEHTA

Present:- Mr. N.K. Malhotra, Advocate,
for the appellants.

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

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

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MEENAKSHI I. MEHTA, J. (ORAL)

Feeling aggrieved and dis-satisfied with the order as handed down by the Commissioner (for short ‘the Competent Authority’) under the Workmen’s Compensation Act, 1923 (for short ‘the Act of 1923’), Rohtak on 25.07.2000, whereby the appellants-claimants (here-in-after referred as ‘the claimants’) have been granted compensation of Rs.2,11,790/-, along-with interest @ 12% per annum, amounting to Rs.25,400/-, on account of the death of Tejvir, they (claimants) have chosen to prefer the instant appeal to seek the enhancement in the amount of compensation.

2. Bereft of the unnecessary details, the facts, as emerging from the perusal of the file and culminating in the filing of the present appeal, are that claimant No.1-wife and claimants No.2 to 4-children of the above-

named deceased, filed a Claim Application for seeking compensation from the respondents, the employer and insurer respectively, while averring that the deceased had been working with the employer as Driver on his vehicle (Maruti Car) bearing Registration No.HR-16-7944. On 30.06.1997, as per the instructions of his employer, he (deceased) was going to Kotputli from Bhiwani, in the said vehicle and one Vikram was also accompanying him. When they reached near the destination, a blue-buck (*Neel-cow*) suddenly came in front of their vehicle and despite the best efforts of the deceased, it (vehicle) struck against an electric pole and this accident resulted in the multiple injuries on his (deceased's) person and the same proved fatal for him. Vide the impugned order, the afore-referred Claim Application has been allowed and the claimants have been awarded the compensation, as already discussed in the opening para of this judgment.

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

4. The sole contention, as has been raised by learned counsel for the claimants at the time of addressing the arguments, is that the deceased had been drawing the monthly salary @ Rs.4000/- whereas the employer asserted the same to be Rs.2200/- but however, the Competent Authority has wrongly assessed his (deceased's) salary as Rs.2000/- per month and in these circumstances, it becomes quite explicit that the claimants are entitled to the enhancement in the amount of compensation, by way of calculating the same, as per the above-said actual monthly salary of the deceased.

5. Per-contra, learned counsel for respondent No.2-Insurance company argues that the Competent Authority has correctly calculated the amount of compensation and hence, the present appeal deserves dismissal.

6. A bare perusal of the order under challenge, reveals that while returning findings on issue No.3, the Competent Authority has specifically observed that keeping in view the limitation imposed under Section 4 of the Act of 1923, the salary of the deceased could be notionally presumed as Rs.2000/-. The claimants have not been able to show that the maximum statutory limit of the salary, to be taken into consideration for the purpose of calculating the amount of compensation as payable under the Act (*ibid*) and prevalent at the relevant time, was more than Rs.2000/- per month.

7. As a sequel to the fore-going discussion, it follows that the impugned order does not suffer from any illegality, infirmity, irregularity or perversity so as to warrant any interference by this Court. Resultantly, the same is, hereby, upheld and the appeal in hand, being *sans* any merit, stands dismissed.

(MEENAKSHI I. MEHTA)
JUDGE

15.02.2024
seema

<i>Whether speaking/reasoned:</i>	<i>Yes</i>
<i>Whether Reportable:</i>	<i>No</i>