

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

FAO No.3155 of 1999
Date of Decision: 19.04.2024

Kanwaljeet Kaur and others

.....Appellants.

Versus

Vinod Kumar 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. Vinod Gupta, Advocate and
Mr. Mayank Gupta, Advocate
for respondent No.2-Insurance Company.

MEENAKSHI I. MEHTA, J. (Oral)

Feeling aggrieved and dis-satisfied with the Award as passed by the Commissioner under the Workmen’s Compensation Act, 1923 (for short ‘the Competent Authority’), at Karnal on 05.05.1999, whereby the appellants-claimants (here-in-after to be referred as ‘the claimants’) have been granted compensation to the tune of Rs.1,71,791/-, along-with interest @ 12% per annum, on account of the death of Sukhwinderjeet Singh in an accident, they (claimants) have preferred the instant appeal for seeking the enhancement in the amount of compensation.

2. Shorn and short of unnecessary details, the facts, as emanating from the perusal of the record and culminating in the filing of the present appeal, are that the claimants, who happen to be the wife, three minor children and parents of the above-named deceased, filed an application for claiming compensation from respondent No.1-employer and respondent No.2-insurer (here-in-after to be referred to as 'the employer and the insurer' respectively), while averring that the deceased had been working with the employer as 'Driver' on his (employer's) jeep bearing registration No.DL-4C-C-2145 with the monthly wages @ Rs.2,500/- and daily allowance @ Rs.50/-. On the ill-fated day, i.e 12.03.1998, he was going from Karnal to Muktsar by driving the afore-said jeep, during the course of his employment and when he reached near Karnal by-pass, it (jeep) collided with the tractor having registration No. HYL-3586 and he (deceased) suffered grievous injuries in this accident and succumbed to the same. The employer and the insurer 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 led by them on the record and hearing their respective counsel, the Competent Authority has allowed the above-referred claim application vide the impugned Award and has granted compensation to the claimants, as already indicated in the opening para of this judgment.

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

4. Learned counsel appearing for the claimants contends that the claimants have categorically averred in their claim application that the deceased was getting the monthly wages/salary @ Rs.2,500/-, along-with the daily allowance @ Rs.50/- and in his written-statement, the employer has asserted the monthly wages of the deceased to be Rs.2,200/- but the Competent Authority has wrongly assessed his (deceased's) monthly wages by taking the then prevalent rate of minimum wages payable to a worker, as notified by the State Government, i.e Rs.1,652/, into consideration and has calculated the amount of compensation on the basis thereof. He further contends that the Competent Authority has also gravely erred in awarding the interest on the amount of compensation, from the date of filing of the claim application whereas the claimants were entitled to the same from the date of the afore-mentioned accident, in view of the judgment as rendered by the Apex Court in *Pratap Narain Singh Deo versus Shrinivas Sabata and another, 1976 AIR (SC) 222* and in these circumstances, it becomes explicit that the claimants are entitled to the enhancement in the amount of compensation on both the above-described counts.

5. Per-contra, learned counsel for the insurer argue that the claimants had not led any cogent evidence on the record to prove the afore-claimed wages/salary of the deceased and moreover, the interest has also been rightly granted to them and it being so, they (claimants) do not have any occasion to ask for the enhancement in the amount of compensation.

6. As regards the contention qua the assessment of the monthly wages of the deceased, it is worth-while to mention here that in para No.3

in their claim application, the claimants have pleaded that the deceased was getting the monthly wages @ Rs.2,500/- with daily allowance @ Rs.50/- but in the corresponding para in his written-statement, the employer has specifically asserted the monthly wages of the deceased to be Rs.2,200/-. However, keeping in view the maximum statutory limit of the monthly wages, as prevailing at the relevant time, for the purpose of calculating the amount of compensation to be paid to a workman under the Act (*ibid*), which, admittedly, stood capped at Rs.2,000/-, the amount of compensation has to be worked out, by assessing the monthly wages of the deceased as Rs.2,000/-. Accordingly, the net enhanced amount of compensation, as would be payable to the claimants, is calculated as under:-

Monthly wages of the deceased=	Rs.2000/-
Deduction towards personal=	50% (2000-1000 = Rs.1000)
and living expenses	
Amount of compensation=	Rs.1000x207.98=Rs.2,07,980/-
Amount already received=	Rs.1,71,791/-
Net enhanced amount =	Rs.2,07,980-1,71,791= 36,189/-

7. So far as the contention regarding the date for granting interest on the amount of compensation is concerned, the four Judges' Bench of the Apex Court has categorically held in **Pratap Narain Singh Deo (supra)** 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*". In the light of above-discussed observations, it becomes crystal clear that the liability of employer to pay the compensation and the corresponding entitlement of

the claimants, had commenced from the date of the accident itself but since the employer had not paid the same to the claimants accordingly, therefore, they (claimants) are entitled to the interest on the amount of compensation from the date of the afore-mentioned 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 to the tune of **Rs.36,189/-**, over and above the amount of Rs.1,71,791/-, as already awarded to them by the Competent Authority and they are also entitled to the interest @ 12% per annum on the total amount of compensation, from the date of the above-said accident till its actual payment.

April 19, 2024
Yag Dutt

(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned: Yes
Whether Reportable: Yes