



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

FAO-6069-2018 (O&M)
Date of decision : 27.01.2026

PARMILA AND ORS

....Appellants

Versus

NIHAL DUTT AND ANR

....Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Shashi Kumar Yadav, Advocate
 for the appellants.

 Mr. Abhay Gupta, Advocate (Amicus)
 for the respondents.

PANKAJ JAIN, J. (ORAL)

Claimants are in appeal before this Court.

2. Mr. Yadav has raised two-fold plea. He submits that the Tribunal erred in computing the compensation payable to the claimants on the basis of monthly salary of Rs.8,000/- per month even though it stands proved in view of the admission made by the employer in his written statement that the deceased Suresh Kumar was getting salary of Rs.12,000/- per month. He further submits that the Commissioner has passed no order w.r.t. penalty.

3. Mr. Gupta, Ld. Amicus Curiae submits that the salary has to abide by notification issued by the Central Government under Section 4(1B) of the Employee's Compensation Act, 1923 (hereinafter referred to as 'the 1923 Act') . Date of accident is 19.05.2013. On the relevant date, as per the



notification issued by Central Government in vogue, the monthly salary of the deceased for the purpose of computation of compensation under Section 4 of 1923 Act was Rs.8,000/- and the show cause notice already stands issued *qua* penalty.

4. The provision before amendment reads as under:-

"4. Amount of compensation.—(1) Subject to the provisions of this Act, the amount of compensation shall be as follows, namely:—

(a) where death results from the injury -

*an amount equal to fifty per cent of the monthly wages of the deceased **workman** multiplied by the relevant factor;*

or

*an amount of **eighty thousand rupees**, whichever is more;*

(b) where permanent total disablement results from the injury-

*an amount equal to sixty per cent of the monthly wages of the injured **workman** multiplied by the relevant factor;*

or

*an amount of **ninety thousand rupees**, whichever is more:*

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*Explanation I.—For the purposes of clause (a) and clause (b), “relevant factor”, in relation to a **workman** means the factor specified in the second column of Schedule IV against the entry in the first column of that Schedule specifying the number of years which are the same as the completed years of the age of the **workman** on his last birthday immediately preceding the date on which the compensation fell due;*

Explanation II – Where the monthly wages of a workman exceed four thousand rupees, his monthly wages for the



purposes of clause (a) and clause (b) shall be deemed to be four thousand rupees only:

(c) where permanent partial disablement results from the injury-
(i) in the case of an injury specified in Part II of Schedule I, such percentage of the compensation which would have been payable in the case of permanent total disablement as is specified therein as being the percentage of the loss of earning capacity caused by that injury, and

(ii) in the case of an injury not specified in Schedule I, such percentage of the compensation payable in the case of permanent total disablement as is proportionate to the loss of earning capacity (as assessed by the qualified medical practitioner) permanently caused by the injury;

Explanation I.—Where more injuries than one are caused by the same accident, the amount of compensation payable under this head shall be aggregated but not so in any case as to exceed the amount which would have been payable if permanent total disablement had resulted from the injuries;

Explanation II.—In assessing the loss of earning capacity for the purposes of sub-clause (ii), the qualified medical practitioner shall have due regard to the percentages of loss of earning capacity in relation to different injuries specified in Schedule I;

(d) where temporary disablement, whether total or partial results from the injury-

*a half-monthly payment of the sum equivalent to twenty-five per cent of monthly wages of the **workman**, to be paid in accordance with the provisions of sub-section (2).*

*(1-A) Notwithstanding anything contained in sub-section (1), while fixing the amount of compensation payable to a **workman***



*in respect of an accident occurred outside India, the Commissioner shall take into account the amount of compensation, if any, awarded to such **workman** in accordance with the law of the country in which the accident occurred and shall reduce the amount fixed by him by the amount of compensation awarded to the **workman** in accordance with the law of that country.;*

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(2) The half-monthly payment referred to in clause (d) of subsection (1) shall be payable on the sixteenth day—

(i) from the date of disablement where such disablement lasts for a period of twenty-eight days or more, or

(ii) after the expiry of a waiting period of three days from the date of disablement where such disablement lasts for a period of less than twenty-eight days; and thereafter half-monthly during the disablement or during a period of five years, whichever period is shorter:

Provided that—

*(a) there shall be deducted from any lump sum or half-monthly payments to which the **workman** is entitled the amount of any payment or allowance which the **workman** has received from the employer by way of compensation during the period of disablement prior to the receipt of such lump sum or of the first half-monthly payment, as the case may be; and*

*(b) no half-monthly payment shall in any case exceed the amount, if any, by which half the amount of the monthly wages of the **workman** before the accident exceeds half the amount of such wages which he is earning after the accident.*

*Explanation.—Any payment or allowance which the **workman** has received from the employer towards his medical treatment shall not be deemed to be a payment or allowance received by*

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him by way of compensation within the meaning of clause (a) of the proviso.

xxx

xxx

xxx

(3) On the ceasing of the disablement before the date on which any half-monthly payment falls due there shall be payable in respect of that half-month a sum proportionate to the duration of the disablement in that half-month.

*(4) If the injury of the **workman** results in his death, the employer shall, in addition to the compensation under subsection (1), deposit with the Commissioner a sum of **two thousand and five hundred rupees** for payment of the same to the eldest surviving dependant of the **workman** towards the expenditure of the funeral of such **workman** or where the **workman** did not have a dependant or was not living with his dependant at the time of his death to the person who actually incurred such expenditure.*

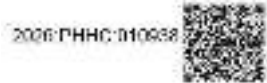
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xxx."

5. Having heard counsel for the parties and after carefully perusing records of the case, this Court finds that the plea raised by counsel for the appellants sans merit.

6. In view of Explanation No.II, there is a ceiling provided on the compensation and the same has to govern by the notification issued under Section 4(1B). Thus, the Commissioner rightly computed the compensation relying upon the notification in vogue on the date of accident and awarded compensation of Rs.6,77,760/- along with interest of Rs.3,27,358/- to the claimants.



7. *Qua* issue of penalty, it is evident from the impugned order that show cause notice stands issued to the employer. Instead of waiting for the adjudication *qua* issue of penalty, claimants have approached this Court.
8. Finding the plea raised *qua* penalty as pre-mature, this Court finds no merit in the present appeal. Resultantly, the same is ordered to be dismissed.

January 27, 2026		(Pankaj Jain)
Dpr		Judge
	Whether speaking/reasoned	: Yes/No
	Whether reportable	: Yes/No