

(2000) 04 RAJ CK 0012

In the Rajasthan High Court

Case No : Civil Miscellaneous Appeal No. 97 of 1992

Oriental Insurance Company Ltd.

APPELLANT

Vs

Smt. Mahendra Kaur and Others

RESPONDENT

Date of Decision : 26-04-2000

Acts Referred:

Workmens Compensation Act, 1923 — Section 4(1)

Citation : (2000) 2 ACC 644 : (2001) 1 RLW 236 : (2000) 4 WLC 260 : (2000) 2 WLN 718

Hon'ble Judges : P.P. Naolekar, J

Bench : Single Bench

Advocate : S.C. Srivastava, for the Appellant;

Judgement

Naolekar, J.

(1). Admittedly on 12.1.1990 Jarnel Singh died in an accident of vehicle No. DEG 4463. Jarnel Sing was the driver of the vehicle. The claimants filed claim petition before the Commissioner Workman's Compensation Act claiming compensation of rupees two lakhs with interest at the rate of eighteen percent. Claims Tribunal after consideration of the material placed on record had reached to the conclusion that deceased Jarnel Singh died during the course of and arising out of the accident. The Claims Tribunal assessed his age at the time of his death as 30 years. A finding was also recorded that he was drawing Rs. 1230/- at the relevant time and applying Section 4(1)(a) has awarded compensation of Rs. 1,02,326.16p. Aggrieved by the said order the Insurance Company has filed the present appeal.

(2). It is contended by the counsel for the appellants that even assuming all findings arrived at by the court of the age of the deceased and his earning to be correct the compensation awarded to the claimants is not in accordance with law i.e. Section 4(1)(a) read with explanation (II) of the Workmen's Compensation Act, 1923. u/s 4 of the Workmen's Compensation Act where death results from the injury the compensation which the claimants shall be entitled to would be an

amount equal to forty percent of the monthly wages of the deceased workman multiplied by the relevant factor. Relevant factor is given in Schedule VI of the Act. For the present case the Commissioner having found that the age of deceased Jarnel Singh was 30 years, the relevant factor shall be 207.98. The explanation (II) to Section 4 provides where the monthly wages of a workman exceeds one thousand rupees, his monthly wages for the purposes of clause (a) and clause (b) shall be deemed to be one thousand rupees only. Reading main Section 4(a) with explanation, the monthly wages of the deceased for the purpose of grant of compensation shall be deemed to be rupees one thousand and not rupees one thousand two hundred and thirty as being taken into consideration by the Commissioner Workmen's Compensation. It is clear from the explanation read with Section 4(a) that the monthly wages drawn more than one thousand rupees shall be deemed to be rupees one thousand only for the purpose of clause (a). Applying the explanation forty percent of the monthly wage shall be rupees four hundred, multiplying it by the relevant factor i.e. 207.98, the amount comes to Rs. 83,192/- and not Rs. 1,02,326.16p. The Commissioner Workmen's Compensation has erred in calculating the compensation taking the wage to be Rs. 1,231/-.

(3). The appeal is partly allowed. The amount of compensation awarded as Rs., 1,02,326.16p. is reduced to Rs. 83.192/-.