

CWP-11289-1998

- 1 -

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

203

CWP-11289-1998

Decided on : 02.04.2024

State of Punjab and others

. . . Petitioner(s)

Versus

Rajvir Kaur and others

. . . Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Mr. Brijesh, AAG, Punjab.

Mr. Baltej Singh Sidhu, Sr. Advocate with
Mr. Himmat Singh Sidhu, Advocate and
Mr. Inderpal Singh, Advocate
for respondents No.1 to 4.

Mr. Saksham Mahajan, Advocate
for respondent No.5.

SANJAY VASHISTH, J. (Oral)

1. Present writ petition has been filed by (i) The Chief Secretary to Govt. Punjab, Chandigarh; (ii) Secretary to Govt. Punjab, Information & Public Relations Department, Chandigarh; and (iii) District Public Relations Officer, Bathinda, challenging therein the award dated 18.03.1998 (Annexure P-2), passed by the Commissioner under the Workmen's Compensation Act (now re-named as 'the Employees Compensation Act, 1923)-cum-Labour-cum-Conciliation Officer, Bathinda.

2. As per the claim application filed by the claimants (respondents No.1 to 4 herein), one Paramjit Singh, Driver of Maruti Van No. PB-01-0176, expired on 05.03.1994, during the course of employment, and thereupon, vide Case No i.e. WCA-26/94, his widow, two sons and one

daughter, claimed compensation from the petitioners herein. While deciding the claim application, Commissioner under the Workmen's Compensation Act-cum-Labour-cum-Conciliation Officer, Bathinda, held that the liability of the owner is vicarious for the tort committed by his employee during the course of his employment. Accordingly, respondents No.1 to 3 in the claim petition (petitioners No.1 to 3 herein) were held liable to pay the compensation to the claimants. Total awarded compensation amount was Rs.1,97,060/- payable within two months, failing which, petitioners were held liable to pay the amount along with simple interest @ 12% per annum.

3. Learned Senior counsel for respondents No.1 to 4, submits that the present writ petition has been filed by ignoring the statutory provisions i.e. Section 30 of the Employees Compensation Act, 1923 (in short 'the Act').

4. Learned Senior Counsel further points out that the writ petition against the said award is not maintainable because as per Section 30(1)(a) of the Act, the order passed by the Commissioner is appealable and according to the third proviso, the appeal would not be maintainable until it is accompanied by a certificate of the Commissioner to the effect that the appellant has deposited with him the amount payable under the impugned order.

Further submits that contention of the petitioners in Paragraph 12 of the writ petition, wherein, it has been specifically stated that petitioners are left with no other remedy except to invoke extra-ordinary writ jurisdiction of this Court, is totally misconceived, same being totally contrary to the facts and circumstances of the present case.

For reference, paragraph No.12 of the writ petition is

CWP-11289-1998

- 3 -

reproduced as under:-

“12. That the petitioner has left with no other remedy except to invoke extra-ordinary writ jurisdiction under Article 226/227 of the Constitution of India in this Hon’ble High Court.”

5. The statutory period for filing of such appeal is fixed as 60 days. Admittedly, neither the compensation amount has been deposited nor any such certificate of the Commissioner has been appended with the writ petition. Thus, no document has been appended with the writ petition to show that the awarded amount of compensation has been paid to the claimants, to meet out the very purpose of the Act i.e. to secure the awarded amount of compensation to rehabilitate the members of the bereaved family.

At this stage, counsel appearing for respondent No.5 refers to the judgment of this High Court rendered in CWP-679-1985, titled as, **“Piara Singh vs. Commissioner, Workmen Compensation under Workmen’s Compensation (Sr. Sub Judge), Patiala and another”**, decided on 03.02.1986, relevant part of which is says as under:-

“(3) Even the learned counsel for the petitioner did not subscribe to the view that infringement of any fundamental right would be involved in cases of grant of compensation under the Act. So far as the other reason is concerned, the matter stands concluded by the decision of the Supreme Court in Sales Tax Officer, Jodhpur and another v. M/s Shiv Ratan G. Mohatta (3), where a similar contention was turned down in the following terms : —

“We are of the opinion that the High Court should have declined to entertain the petition. No exceptional circumstances exist in this case to warrant the exercise of the extraordinary jurisdiction under Article 226. It has not been the object of Article 226 to convert High Courts into original or appellate assessing authorities whenever an assessee chose to attack an assessment order on the ground that a sale was made in the course of import and, therefore, exempt from. tax. It was urged on behalf of the assessee that they would have had to deposit sales tax, while filing an appeal. Even if this is so, does this mean that in every case in which the assessee has to deposit sales tax, he can bypass the remedies provided by the Sales Tax Act ? Surely not. There must be something more, in a

CWP-11289-1998

- 4 -

case to warrant the entertainment of a petition under Article 226, something going to the root of the jurisdiction of the Sales Tax Officer, something to show that it would be a case of palpable injustice to the assessee to force him to adopt the remedies provided by the Act.

Consequently, the simple fact that the compensation awarded has to be deposited before an appeal can be entertained, would furnish no ground to entertain the writ petition bypassing the statutory remedy of appeal. Moreover, the Workmen's Compensation Act is a welfare legislation meant to provide speedy remedy to the workmen in case of injuries received by them in the course of their employment. The Legislature in its wisdom has laid down that the workman must get the compensation awarded before the matter is allowed to be taken up in appeal by the employer. The entertainment of the petition under Article 226 of the Constitution would obviously defeat the intent and purpose of the legislation and it would be only in rare and exceptional cases where the order on the face of it shows violation of some statute or inherent lack of jurisdiction that the court would be justified in entertaining the petition under Article 226 of the Constitution bypassing the statutory remedy. We are, therefore, of the considered opinion that the decision in Baru Ram's case (supra) was not correctly arrived at and overrule the same.

(4) As in the present, case no exceptional circumstance has been shown apart from the fact that the compensation awarded has to be deposited before the appeal can be maintained, we find no reason to entertain this petition which is accordingly dismissed with costs and the petitioner is relegated to the ordinary remedy under the Act."

6. Thus, in the case of **Piara Singh (supra)**, the award passed under the Act, was challenged by filing writ petition before the High Court, under Article 226 of the Constitution of India. The very object and intent of this legislation, i.e. the Workmen's Compensation Act (now re-named as 'the Employees Compensation Act, 1923), to get the awarded amount deposited prior to the filing of appeal under the said Act, has also been highlighted, in the said case.

In the present case, a person expired while in service, i.e. on 05.03.1994, and compensation amount was declared vide award dated 18.03.1998. I have also examined the previous orders passed by the Co-ordinate Bench(s) of this Court and find that there was never any stay order

against the operation of the impugned award. The Court is also informed that till date, neither the compensation amount has been deposited before the authority concerned nor paid to the claimants.

7. Furthermore, this Court cannot lose sight of the fact that the petitioners herein, against whom the impugned award has been passed, are State Government and/or its authorities, i.e. (1) State of Punjab, (2) Secretary to Government Punjab, Information and Public Relation Department, and (3) District Public Relation Officer, Bathinda. On the basis of mere technicalities, the petitioners, who are well acquainted with law, its lengthy procedure and aims and objects of the Statute, i.e. Workmen's Compensation Act, cannot be expected to sit idle with closed eyes, and not to pay the awarded amount of compensation to the needy family. Moreover, a frivolous attempt has been made by filing present writ petition before this Court, without pointing out any special reason of doing so, merely to avoid deposit of the compensation amount, for not filing appeal.

Looking at the conduct of the petitioners, this Court is constrained to impose cost amount of Rs. 1,00,000/- (Rupees one lac only), against the petitioners/State of Punjab, to be deposited with the **Punjab and Haryana High Court Bar Association Lawyers Family Welfare Fund**, in State Bank of India, Current Account No. **41564846387**, IFSC Code: **SBIN0050306**, within a period of two weeks from today.

Copy of the receipt of deposit of cost amount, be also produced on the adjourned date.

8. In view of the facts and statutory provisions addressed and recorded herein-above, I do not find any reason to interfere in the impugned award, rather, there is no point in entertaining the present writ petition.

CWP-11289-1998

- 6 -

Accordingly, same is **dismissed being not maintainable**.

However, at this stage, present petition is adjourned for a short purpose i.e. to apprise this Court as to why the compensation amount along with interest has not been paid till date to the claimants and to produce the copy of the receipt of the deposit of the cost amount.

9. List again on **15.04.2024** for the said short purpose only.

To be shown in the urgent motion list.

(SANJAY VASHISTH)
JUDGE

April 02, 2024

J.Ram

Whether speaking/reasoned: ✓ *Yes/No*

Whether Reportable: ✓ *Yes/No*