

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

110

(I) CWP-1420-2024

Date of Decision : October 14, 2025

MANJU RANI AND ORS.

-PETITIONERS

V/S

**THE COMMISSIONER UNDER THE EMPLOYEES
COMPENSATION ACT, 1923, FATEHABAD AND ORS.**

-RESPONDENTS

(II) CWP-10260-2024 (O&M)

**HARYANA STATE AGRICULTURE MARKETING BOARD AND
ANR.**

-PETITIONERS

V/S

**THE COMMISSIONER UNDER THE EMPLOYEES
COMPENSATION ACT, 1923, FATEHABAD AND ORS.**

-RESPONDENTS

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Munish Kamboj, Advocate
for the petitioners (in CWP-1420-2024) and
for the respondents No.2 to 5 (in CWP-10260-2024).

Mr. Praveen Chander Goyal, Advocate
for the petitioners (in CWP-10260-2024) and
for the respondents No.2 and 3 (in CWP-1420-2024).

KULDEEP TIWARI, J. (ORAL)

1. Both these writ petitions are amenable to being decided through a common verdict on account of their enveloping a challenge to a common order dated 27.10.2023 passed by the Commissioner, Employee's Compensation Act, Circle Sirsa, Camp at Fatehabad.

2. CWP-1420-2024 has been filed by the legal representatives of the deceased workman seeking enhancement of compensation, whereas

CWP-10260-2024 has been filed by the Haryana State Agriculture Marketing Board and the Market Committee, Fatehabad, challenging the impugned order on the ground that they were not the principal employer, as the workman was engaged through a contractor.

3. Learned counsel for the legal representatives of the workman submits that the Commissioner, while computing compensation, has erroneously restricted the monthly wages of the workman to ₹ 15,000/-, despite categorical evidence establishing his wages at ₹ 20,000/- per month. He argues that such restriction is contrary to the provisions of the Employee's Compensation Act, 1923 (hereinafter referred to as the "Act of 1923"), as no such limitation now exists. To substantiate this submission, he draws the attention of this Court to Section 4 of the Act of 1923, and submits that earlier there existed a deeming provision in Explanation II to Section 4, by dint whereof, the monthly wages of an employee were capped at ₹ 4,000/- even where an employee was able to prove the payment of a monthly wage in excess of ₹ 4,000/-. However, post 2009, amendment was carried out in the Act of 1923 and the wage cap (*supra*) was deleted. In support of his submission, he also places reliance upon the verdict rendered by the Hon'ble Supreme Court in "**K. Sivaraman & Ors. Vs. P. Sathishkumar & Anr.**", 2020 (4) J.C.R. 525. Relevant paragraph of the verdict is extracted hereunder:-

"26. Prior to Act 45 of 2009, by virtue of the deeming provision in Explanation II to Section 4, the monthly wages of an employee were capped at Rs 4000 even where an employee was able to prove the payment of a monthly wage in excess of Rs 4,000. The legislature, in its wisdom and keeping in mind the purpose of the 1923 Act as a social welfare legislation did not enhance the

quantum in the deeming provision, but deleted it altogether. The amendment is in furtherance of the salient purpose which underlies the 1923 Act of providing to all employees compensation for accidents which occur in the course of and arising out of employment. The objective of the amendment is to remove a deeming cap on the monthly income of an employee and extend to them compensation on the basis of the actual monthly wages drawn by them. However, there is nothing to indicate that the Legislature intended for the benefit to extend to accidents that took place prior to the coming into force of the amendment.”

4. Furthermore, learned counsel for the legal representatives of the workman submits that the Commissioner has also erred in not awarding additional compensation as mandated under Section 4A of the Act, which provides for payment of interest and penalty in case of delay in disbursement of compensation. Section 4A reads as under:-

“4A. Compensation to be paid when due and penalty for default.-

(1) Compensation under section 4 shall be paid as soon as it falls due.

(2) In cases where the employer does not accept the liability for compensation to the extent claimed, he shall be bound to make provisional payment based on the extent of liability which he accepts, and, such payment shall be deposited with the Commissioner or made to the [employee], as the case may be, without prejudice to the right of the [employee] to make any further claim.

(3) Where any employer is in default in paying the compensation due under this Act within one month from the date it fell due, the Commissioner shall--

(a) direct that the employer shall, in addition to the amount of the arrears, pay simple interest thereon at the rate of twelve per cent. per annum or at such higher rate not exceeding the maximum of the lending rates of any scheduled bank as may be specified by the Central

Government, by notification in the Official Gazette, on the amount due; and

(b) if, in his opinion, there is no justification for the delay, direct that the employer shall, in addition to the amount of the arrears and interest thereon, pay a further sum not exceeding fifty per cent, of such amount by way of penalty:

Provided that an order for the payment of penalty shall not be passed under clause (b) without giving a reasonable opportunity to the employer to show cause why it should not be passed.”

5. Conversely, learned counsel for the Haryana State Agriculture Marketing Board, in his assailing the impugned order, submits that the multiplier applied by the Commissioner is on the higher side. However, when this Court posed a specific query to him as to how the Board could have any grievance from the impugned order when the Commissioner has, in his concluding observations, held that the Board shall have right to be indemnified by the contractor, he fairly concedes that such rights have indeed been conferred.

6. In view of the above and considering the amendment to the Act of 1923 carried out in 2009, i.e., prior to the passing of the impugned order, this Court is of the opinion that the matter warrants reconsideration by the Commissioner. The Commissioner shall re-examine whether, in light of the said amendment and the verdict (*supra*) of the Hon'ble Supreme Court, the last drawn wages of ₹20,000/- could lawfully be restricted to ₹15,000/-. Accordingly, the matter is remanded to the Commissioner concerned to make a fresh decision, within four months from the date of receipt of a certified copy of this order, but after affording due opportunity of hearing to all concerned.

7. **Disposed of accordingly.**

8. Pending application(s) also stands disposed of accordingly.
9. A photocopy of this order be placed on file of connected case.

October 14, 2025
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(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No