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

FAO-1540-1994

Date of decision : 26.08.2025

NATIONAL INSURANCE CO. LTD.

...Petitioner

Versus

HARI SHANKAR AND ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Gopal Mittal, Advocate
for the appellant.

PANKAJ JAIN, J. (ORAL)

Insurance Company is in appeal against the order passed by Commissioner under Workmen's Compensation Act, Panipat, dated 22.04.1994.

2. The Insurance Company disputes its liability regarding payment of interest as well as the penalty awarded by the Commissioner.

3. Mr. Mittal does not dispute that in terms of ratio of law laid down by the Supreme Court in the case of **Ved Parkash Garg vs. Premi Devi (1997) 8 SCC 1**, the liability to pay the interest has to be shouldered by the insurance company. However, submits that penalty has to be paid by the employer.

4. Dealing with the issue, Supreme Court in **Ved Parkash Garg's** case (supra) observed as under:

“14. On a conjoint operation of the relevant schemes of the aforesaid twin Acts, in our view, there is no escape from the



conclusion that the insurance companies will be liable to make good not only the principal amounts of compensation payable by insured employers but also interest thereon, if ordered by the Commissioner to be paid by the insured employers. Reason for this conclusion is obvious. As we have noted earlier, the liability to pay compensation under the Workmen's Compensation Act gets foisted on the employer provided it is shown that the workman concerned suffered from personal injury, fatal or otherwise, by any motor accident arising out of and in the course of his employment. Such an accident is also covered by the statutory coverage contemplated by Section 147 of the Motor Vehicles Act read with the identical provisions under the very contracts of insurance reflected by the Policy which would make the insurance company liable to cover all such claims for compensation for which statutory liability is imposed on the employer under Section 3 read with Section 4-A of the Compensation Act. All these provisions represent a well-knit scheme for computing the statutory liability of the employers in cases of such accidents to their workmen.

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So far as this penalty amount is concerned it cannot be said that it automatically flows from the main liability incurred by the insured employer under the Workmen's Compensation Act. To that extent such penalty amount as imposed upon the insured employer would get out of the sweep of the term 'liability incurred' by the insured employer as contemplated by the proviso to Section 147(1)(b) of the Motor Vehicles Act as well as by the terms of the Insurance Policy found in provisos (b) and (c) to sub-section (1) of Section II thereof. On the aforesaid interpretation of these two statutory schemes, therefore, the conclusion becomes inevitable that when an employee suffers from a motor accident injury while on duty on the motor vehicle belonging to the insured employer, the claim for compensation payable under the Compensation Act along with interest thereon, if any, as imposed by the Commissioner Sections 3 and 4-A(3) (a) of the Compensation Act will have to be made good by the insurance company jointly with the insured employer.



But so far as the amount of penalty imposed on the insured employer under contingencies contemplated by Section 4-A(3) (b) is concerned as that is on account of personal fault of the insured not backed up by any justifiable cause, the insurance company cannot be made liable to reimburse that part of the penalty amount imposed on the employer. The latter because of his own fault and negligence will have to bear the entire burden of the said penalty amount with proportionate interest thereon if imposed by the Workmen's Commissioner.”

5. In view thereof, the present appeal is disposed off with the modification in the order that the penalty shall be paid by respondent No.2/the employer.

6. Ordered accordingly.

August 26, 2025

(Pankaj Jain)

Dpr

Judge

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No