



FAO-1158-1999 (O&M)

compensation within the period prescribed under the Act. Now, in the absence of any defensive arguments by the respondents I am of the opinion that present case is fit for imposing penalty and accordingly I impose penalty @ 50% of the compensation amount as required under the Act, which amounts to Rs.56305/-.”

3 Notice of motion was issued by this Court observing as under :-

“Mr.Chhabra has placed on record photostat copy of notice dated 17.3.1999 whereby appellant was asked to appear on 31.3.1999. It is contended that without giving an opportunity of filing a reply, the order impugned was passed.

Notice of motion for 23.8.1999.

Operation of impugned order shall remain stayed till further orders.”

4 Mr. Sandeep Khunger, Advocate for the respondent has drawn attention of this Court to the observations made by the Commissioner regarding appearance of the authorized representative of the employee Mr. Radhey Shayam Sharma and the statement made by him that respondents do not prefer to file any reply. He thus submits that the employer has been rightly saddled with the penalty equivalent to 50% of the awarded compensation.

5 Faced with the situation, learned counsel for the appellants submits on the very next day of the accident, employer informed the insurer requesting for release of compensation. However, for the reason the employee himself left hospital without informing the employer that the compensation was not awarded by the insurer and further submits that even



FAO-1158-1999 (O&M)

during the proceedings before the Commissioner, employer supported the claim of the employee. He thus submits that the Commissioner erred in awarding maximum amount of 50% of the compensation as penalty.

6 I have heard learned counsel for the parties and have gone through the records of the case.

7 Keeping in view the peculiar facts and circumstances of the case, this Court finds that the Commissioner ought to have considered the conduct of the employer while awarding penalty.

8 Resultantly the award is modified to the extent that the employer is held liable to pay amount to the extent of 35% of the compensation amount as penalty.

9 Appeal stands disposed off.

07.05.2025

Pooja Sharma-I

**(PANKAJ JAIN)
JUDGE**

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No