

CM-18060-CII-2016 IN/&  
FAO-5309-2016 (O&M)

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216 IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

2025:PHHC:051242



CM-18060-CII-2016 IN/&  
FAO-5309-2016 (O&M)  
DATE OF DECISION : 21.04.2025

BAJAJ ALLIANZ GENERAL INSURANC COMPANY LIMITED  
... APPELLANT

V/S

MANJU DEVI @ MANJU AND OTHERS ... RESPONDENTS

**CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN**

Present: Mr. Vishal Aggarwal, Advocate for the appellant.

None for the respondents.

\* \* \*

**PANKAJ JAIN, J. (ORAL)**

The present appeal is directed against order dated 26.02.2016 passed by the Commissioner, Circle-3, Gurgaon under the Employees Compensation Act, 1923 (for short 'the 1923 Act') by the insurer. The sole challenge is to the liability vis-a-vis penalty awarded by the Commissioner in the impugned order. Respondents have remained unrepresented despite service.

2. Insurer-appellant relies upon the ratio of law laid down by the Hon'ble Supreme Court of India in *Ved Prakash Garg Versus Premi Devi reported as (1997) 8 SCC 1* to submit that it is the employer-insured who has to shoulder the liability to pay penalty and the same cannot be fastened

upon the insurer.

3. I have heard learned counsel for the appellant and have carefully gone through the records of the case.

4. The operative part of the impugned order, reads as under:-

*“The respondent No.2 is also liable to pay a sum of Rs.5000/- (Five Thousand rupees) to the applicants towards the expenditure of the funeral of the deceased as per the provisions laid down under Section 4(4) of the Act.*

*It was also argued by the A.R. of the applicants that the respondents did not help the poor dependent of his deceased employee by depositing the compensation within one month and therefore, he may be penalized and under the provisions of the Act, as the Commissioner is also empowered to impose penalty up to 50% of the awarded amount. He also relied upon the authority reported as **Rpraveenbhai S. Khambhayata Vs United India Insurance Co. Ltd & others, 2015-ACJ-936**. In view of the above circumstances and ratio of the authority and provisions of the Act, I hereby impose a penalty to the tune of 35% of the compensation amount to be paid by the Respondent No.2(Insurance Company), calculated as Rs.298998/-. Hence this issue is decided accordingly in favour of the applicants.”*

5. The precise issue came up for consideration before the Hon’ble Supreme Court in the case of **Ved Prakash (supra)**. Following question was framed in para 1 of the judgment:-

*“Where an employee receives a personal injury in a motor accident arising out of and in the course of his employment while working on the motor vehicle of the employer, whether the insurance company, which has insured the employer-owner of the vehicle against third party accident claims under [Motor Vehicles Act, 1988](#) (hereinafter referred to as 'the [Motor Vehicles Act](#)') and against claims for compensation arising out of proceedings under the [Workmen's Compensation Act, 1923](#) (hereinafter referred to as 'the [Compensation Act](#)') in connection with such motor accidents, is liable to meet the awards of Workmen's Commissioner imposing penalty and interest against the insured employer under [Section 4-A\(3\)](#) of the [Compensation Act](#).”*

6. The same was answered as under:-

*“19. As a result of the aforesaid discussion it must be held that the question posed for our consideration must be answered partly in the affirmative and partly in the negative. In other words the insurance company will be liable to meet the claim for compensation along with interest as imposed on the insured employer the Workmen's Commissioner under the [Compensation Act](#) on the conjoint operation of [Section 3](#) and [Section 4-A](#) sub-section 3(a) of the [Compensation Act](#). So far as additional amount of compensation by way of penalty imposed on the insured employer by the Workmen's Commissioner under [Section 4-A\(3\)](#) (b) is concerned, however, the insurance company would not remain liable to reimburse the said claim and it would be the liability of the insured employer alone.*

*20. In view of the aforesaid conclusion of ours the present appeals will have to be partly allowed, The impugned judgments of the High Court will stand confirmed to the extent they exonerate the respondent-insurance companies of the liability to pay the penalty imposed on the insured employers by the Workmen's Commissioner under [Section 4-A\(3\)](#) of the*

*Compensation Act. But the impugned judgments will be set aside to the extent to which they seek to exonerate insurance companies for meeting the claims of interest awarded on the principal compensation amounts by the Workmen's Commissioner on account of default of the insured in paying up the compensation amount within the period contemplated by [Section 4-A\(3\)](#) of the Compensation Act. Accordingly it must be held that the respondent-insurance company will be liable to meet the claim of the appellant-insured in Appeals Nos. 15698-15699 of 1996 to the extent of Rs.88,548/- in Claim Case No.2 of 1992 with interest thereon at the rate of 6% per annum from the date of accident till the date of payment.*

*But the respondent-insurance company will not be liable to meet the claim of penalty of Rs.44,274/- imposed on the appellant-insured along with the interest of 6% per annum on the said amount of Rs. 44,274/-. To that extent the award of the Commissioner will stand modified. So far as the Claim No.3 of 1992 is concerned the respondent-insurance company will be liable to reimburse the compensation amount of Rs. 88,968/- with interest at the rate of 6% p.a. thereon from the date of the accident till the date of payment. But it will stand exonerated of its liability of reimbursement so far as the penalty amount of Rs.41,984/- and amount of interest at 6% p.a. thereon are concerned. To that extent the award of the Workmen's Commissioner in Claim Case No.3 of 1992 will stand modified. Similarly in Civil Appeal No. 15700 of 1996 the impugned judgment of the High Court will stand partly set aside so far as the claim for interest as imposed on appellant-insured is concerned and the award of the Workmen's Commissioner in so far as his award of Rs. 81,540/- as compensation along with interest will stand confirmed. But the further part of the award to the extent it directs that in the event of failure to pay the said amount within one month a penalty of 30% p.a. shall be*

*payable by the insurance company, will stand set aside. Consequently the respondent-insurance company in this case will be liable to pay Rs.81,540/- by way of compensation with interest at 6% per annum thereon from the date of the accident till the date of payment to the claimants. The awards of the Commissioner will stand modified accordingly. They will obviously remain untouched so far as they are against the employers. It will be open to the claimants to enforce their claims of penalty amounts with proportionate interest thereon against employers concerned."*

7. This Court is of the opinion that the plea raised by learned counsel for the appellant is squarely covered by the ratio of law laid down in **Ved Prakash's case (supra)**. Resultantly, the appeal deserves to be allowed to the extent that the amount of Rs.2,98,998/- awarded to the claimants on account of penalty as contemplated under Section 4A of the 1923 Act shall be payable by insured i.e. respondent No.5 and not by the appellant. Appellant stands exonerated only qua liability to pay the penal amount.

8. The appeal is accordingly allowed.

**21.04.2025**  
Janki

**(PANKAJ JAIN)**  
**JUDGE**

Whether speaking/reasoned : Yes/No  
Whether reportable : Yes/No