

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

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**FAO-268-2013 (O&M)
Date of decision : 08.07.2025**

New India Assurance Co. Ltd.

..... Appellant

versus

Gurjeet Kaur and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Abhimanyu Kalsy, Advocate
for the appellant.

Mr. Rajesh Bansal, Advocate
for respondent No.5.

PANKAJ JAIN, J. (Oral)

CM-9018-CII-2025

This is an application for fixing the actual date of hearing in the main case.

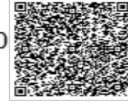
For the reasons mentioned in the application, the same is allowed. Main case is taken up on Board today itself.

FAO-268-2013

1. Challenge is to the order dated 06.11.2012 whereby the Commissioner has awarded consolidated sum of Rs.1,00,000/- on account of penalty as well as interest under Section 4-A of Employee's Compensation Act, 1923.

2. In the main award which is placed on record as Annexure A-1, the Commissioner ordered as under:-

“In view of my above findings, the respondent No.2
i.e. New India Insurance Co. Ltd., through its Branch



Manager is directed to deposit the following amount of compensation i.e., of Rs. 3,73,800/- (Three lacs Seventy Three thousands, eight hundred only) with this court within 30 days failing which the respondent No.2 will also be liable to pay further simple Interest at the rate of 12% per annum on the amount of compensation only from the date of this order till its realization. No order as to costs.”

3. Thereafter, Commissioner passed the impugned order awarding consolidated sum of Rs.1,00,000/-. Both the parties are at loggerheads disputing their liability. Insurance company relies upon *Ved Parkash Garg vs. Premi Devi 1997(8) SCC 1*, to submit that the penalty part has to be saddled by the employer and not by the insurance company. On the other hand, counsel for the employer has argued that out of Rs.1,00,000/- awarded, Rs.82,000/- forms interest as payable under Section 4-A and thus, the employer is liable only to pay the residual amount of Rs.18,000/-.

4. Having heard counsel for the parties and have carefully gone through the record of the case, this Court finds that the Commissioner erred in awarding a lumpsum amount of Rs.1,00,000/- on account of penalty and interest which is explicitly in the teeth of the bare provision as contained under Section 4-A of 1923 Act which 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 the¹[employee], as the case may be, without prejudice to the right of the ¹[employee] to make



any further claim.

³[(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. The impugned order is hereby set aside. The matter is remanded back to the Commissioner to decide afresh specifying the amount of interest payable to the claimant as well as the amount of penalty alongwith the party liable to pay the same in view of ratio of law laid down by Supreme Court in the case of *Ved Prakash Garg (supra)*. The parties shall appear before the Commissioner on **28.07.2025**. The necessary exercise shall be conducted and appropriate order shall be passed on or before **30.08.2025**.

6. Disposed off, accordingly.

(PANKAJ JAIN)
JUDGE

08.07.2025

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Whether speaking/reasoned : Yes

Whether Reportable : No