



FAO-1921-1994 (O&M)

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO-1921-1994 (O&M)

Date of Decision : 21.07.2025

Oriental Insurance Company Limited

... Appellant

Versus

Afsari and others

... Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Sanjiv Pabbi, Advocate,
for the appellant.

Mr. Aayush Bansal, Advocate for
Mr. Sanjiv Gupta, Advocate,
for respondent No.1.

Mr. Ghulam Nabi Malik, Advocate,
for respondent No.2.

PANKAJ JAIN, J. (Oral)

The insurance company is in appeal disputing its liability to pay penalty as awarded by the Commissioner under Workmen's Compensation Act, 1923 (now known as Employees' Compensation Act, 1923).

2. Counsel for the appellant relies upon **Ved Prakash Garg v. Premi Devi** reported as **(1997) 8 SCC 1**.

3. Mr. Nabi relies upon the observations made in para. 5 to submit that since the insurance policy was in place, it is the insurance who is



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required to reimburse the employment and shoulder the responsibility. He relies upon **The Oriental Insurance Company Limited v. Ram Kumar and others** reported as **1991 (1) PLR 300**, **New India Assurance Company Limited v. Smt. Luxmi Devi and others** reported as **2009 (1) CLR 223**, **Sardara Ram v. Haryana State through Collector, Hisar and others** reported as **2015 (4) RCR (Civil) 772**, **The Oriental Insurance Company Limited, Ranny v. K.T.Thomas** reported as **2018 ACJ 932** and **The Divisional Manager, United India Insurance Company Limited v. Mahadev Mahalingappa Jotawar and another**, reported as **2016 AAC 1251**.

4. In the considered opinion of this Court, the issue now stands settled by Supreme Court in **Ved Prakash Garg's** case observing as under :

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“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 by 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 the 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



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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."

5. In view of above, the present appeal is allowed only with respect to liability to pay amount of ₹ 32,614/- awarded to the claimant as penalty. Rest of the liability shall remain that of the insurance company.

6. Disposed off.

Pending application, if any, stands disposed off.

**(PANKAJ JAIN)
JUDGE**

July 21, 2025
Paritosh Kumar

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| Whether speaking/reasoned | Yes/No |
| Whether reportable | Yes/No |