



FAO-8078-2015 (O&M)

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

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FAO-8078-2015 (O&M)
Date of decision : 07.02.2025

Neelam Rani and another

... Appellants

Versus

Harbans Lal and another

... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present:- Mr. Digvijay, Advocate for
Mr. Nitin Mittal, Advocate
for the appellants.

None for respondent No.1 and 2.

Pankaj Jain, J. (Oral)

1. Respondent No.1 stands served, yet none has appeared.
2. The issue is only with respect to penalty as provided under Section 4-A of the Employee's Compensation Act, 1923 (for short - '1923 Act'). While granting compensation to the claimant, Commissioner specifically denied penalty without affording any reason. Section 4-A of the 1923 Act 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



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*the Commissioner or made to the *[employee], as the case may be, without prejudice to the right of the*[employee] to make any further claim.*

(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.

*Explanation.--For the purposes of this sub-section, "scheduled bank" means a bank for the time being included in the Second Schedule to the Reserve Bank of India Act, 1934 (2 of 1934). (3A) The interest and the penalty payable under sub-section (3) shall be paid to the *[employee] or his dependant, as the case may be."*

3. Commissioner has held the claimant entitled to interest at the rate of 12% per annum on the compensation amount only for the period of 04 years. The reason for confining interest for 04 years is that even though accident occurred on 21.09.2004 but the claim petition was filed only in 2011. In the considered opinion of this Court, once the Commissioner condoned delay, he



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had no right to curtail the period for which the interest was payable. In view thereof, the impugned award is modified to the extent as under:-

- i) Claimant is entitled for interest at the rate of 12 per cent per annum for a period commencing from 30 days after the date of accident i.e. commencing from 20.10.2004 till the date of actual realization. The interest part shall be borne by Insurance Company.
 - ii) Claimant is further held entitled to penalty which is 50% of the awarded compensation i.e. Rs.192314 / 2= Rs.96157/-.
 - iii) The penalty amount shall be paid by the owner i.e. respondent No.1.
4. The appeal stands disposed off accordingly.
 5. Pending application(s), if any, shall also stand disposed off.

(PANKAJ JAIN)
JUDGE

February 07, 2025

A.Kaundal

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