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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **FAO 390/2013 & CM 16113/2013 (stay)**

% **10th February, 2014**

UNION OF INDIA THROUGH DIVISIONAL RAILWAY
MANAGER, NORTHERN RAILWAY Appellant
Through Mr. Amit Dubey, Mr. Ravi Tyagi,
Advocates

versus

SMT. PREM DEVI & ANR. Respondents
Through Mr. Rajesh Tyagi, Advocate

CORAM:
HON'BLE MR. JUSTICE VALMIKI J. MEHTA

To be referred to the Reporter or not?

VALMIKI J. MEHTA, J (ORAL)

1. This first appeal has been filed under Section 30 of the Employees' Compensation Act, 1923 impugning the order dated 24.5.2013 by which the application under Section 4(A) of the Act has been allowed and appellant has been fastened with the liability of the interest and penalty.

2. It is now settled law in view of the judgment of the Supreme Court in the case of *Pratap NarainSingh Deo Vs. Srinivas Sabata & Anr., 1976*

ACJ 141; 1976(1) SCC 289 that unless the compensation amount is deposited within one month of the date of the accident, the employer will be liable to interest and penalty. Issue of penalty arises if sufficient cause is not shown for deposit of the compensation amount within one month of the date of the accident.

3. In the present case, admittedly, the accident which resulted in the death of the employee Sh. Inder Lal Meena, took place on 12.12.2010, and the appellant/Railways deposited compensation amount on 27.4.2011 i.e after more than one month, and that too only 50% of the compensation and not the entire amount. Therefore, both in the letter and spirit the requirement of deposit of compensation within one month of the accident has not been complied with. In fact, the balance 50% of the compensation was paid as late as on 4.9.2012 before the Commissioner i.e almost after two years of the accident. Taking all aspects into consideration the Commissioner has refused to accept the reason given for delay in deposit of the compensation amount within one month and has awarded interest and penalty especially in view of the factum of the Government Notification dated 31.5.2010 by which the wage limit increased to Rs. 8,000/-. The relevant paragraphs of the impugned order are paras 3 to 6 and which read

as under:

“3. The fact of the matter is that Late Shri Inder Lal Meena was under the employment of Northern Railway and died on 12.12.2010 during the course of his employment. In discharge of liabilities/duties, respondent/employer Divisional Railway Manager, Northern Railway deposited Rs. 3,06,180/- on 27.04.2011 as compensation amount, which was only 50% of the Principal amount. Employer of the deceased failed to deposit entire amount of compensation with this Court within prescribed period i.e. one month of the death of the employee. Petitioners, therefore, prayed for release of balance amount of compensation along with interest for delayed period over the compensation amount and for imposition of penalty to the tune of 50% of the entire compensation amount, upon respondent. In order to give an opportunity to the respondent to explain the reasons why the prayer of the petitioner not be accepted, a notice was served upon the respondent. During the course of proceedings, Respondent has deposited the balance amount of Rs. 3,06,180/- before the Commissioner on 4.9.2012. Respondent in their reply pleaded that Railway is a big department and there are many Administrative formalities and levels of approval for getting sanction for the compensation amount so that the compensation amount could not get deposited in time. Oral arguments were forwarded by the respective counsels from both the sides.

4. I have carefully gone through the case file and submissions made by the parties. In the instant case the accident occurred on 12.12.2010 and the principal amount of compensation was deposited by the employer in two instalments on 27.4.2011 and 4.9.2012 respectively. As per section 4-A (3) (a) (b) of the Employee's Compensation Act and the case law settled by Hon'ble Supreme Court of India in a case titled as Pratap Narain Deo Vs. Srinivas Sabata cited at 1976 ACJ 141 the claimant is entitled to interest from the date of accident which occurred on 12.12.2010 till the date of deposited by principal amount and as per mandate of the Act as given in section 4-A the rate of interest is 12% p.a. It has been

further stated that the claimant is also entitled to penalty to the extent of 50% of the principal amount as per section 4-A(3) (b) of the Workmen's Compensation Act now Employee's Compensation Act.

5. On the basis of law settled by the Hon'ble Supreme Court in the aforesaid case, the plea of the respondent for waiver of interest is non-maintainable. And, therefore, the respondent is liable to pay interest @ 12% from the date on which the amount fell due (12.1.2011) till its realization (27.4.2011 and 4.9.2012) which amounts to Rs. 60,187/-.

6. Regarding penalty, respondent in his written argument stated that delay in making payment to the claimants the procedural requirement which the Railway has to follow as per their normal work practice, and hence they are not liable for penalty. The respondent stated that since no time frame has been devised by the Railway administration for processing the claim at various levels of authorities, the delay happened. In the absence of any time bound procedure and the bureaucratic set up of the organization, this kind of delay at various levels of scrutinisation of claim is against the interest of the claimant/s. It is well settled that this Act is a piece of social security and welfare legislation and therefore any reason for delay due to Administrative hindrances prevailing in any organization does not fall within the scope of the meaning of justifiable reason and hence liable for penalty. Although the Railway has deposited the payment in the Commissioner's office on 27.4.2011, this was only 50% of the entitled amount. The Govt. of India vide Gazette Notification published on 31st May, 2010 has already increased the wage limit to Rupees "Eight Thousand". It is clearly understandable that the Railway Administration while processing the claim during the period December, 2010-March 2012 has not taken into cognizance the increased wage limit and therefore paid compensation at the old wage rate which laid to the sufferance of the claimants(deceased family). In view of the above deliberations, the respondent is held unreasonable while causing delay in making payment attracting section 4-A (3) (b) and is liable to pay penalty @ 25% of the compensation amount (Rs.

6,12,360)-).”

4. An appeal under Section 30 is entertained only if there is a substantial question of law. I do not find any substantial question of law raised in the present appeal taking the fact that not only the first amount deposited was well after one month, and that too only 50%, and the balance 50% was deposited around two years of the accident.

5. In view of the above, there is no merit in the appeal and the same is, therefore, dismissed, leaving the parties to bear their own costs. It will be open to the appellant to seek recovery against the concerned officers who are found guilty of lapse of causing huge monetary loss to the organization, and it will also be open to the appellant to initiate appropriate departmental proceedings against the guilty officials.

VALMIKI J. MEHTA, J

FEBRUARY 10, 2014
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