

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

FAO (WC) No. 3/2022

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**New India Insurance Company th.
Mohd Shafi Bhat**

.... Appellant(s)/Petitioner(s)

Through: None.

Vs

Atta Mohd Baharu &Anr.

..... Respondent(s)

Through: None.

Coram: HON'BLE MR. JUSTICE SANJAY PARIHAR, JUDGE

ORDER

04.07.2026

01. This appeal is directed against an award dated 04.03.2020, passed by the Commissioner under the Employees Compensation Act 1923, (Assistant Labour Commissioner), Ramban (hereinafter referred to as 'Commissioner'), in the claim petition titled, '*Atta Mohd Baharu Vs. Abdul Majeed Bhat &Anr*', whereby, the appellant-Company is directed to deposit an award to the tune of Rs. 7,23,580/- before the Court of Commissioner under the Employees Compensation Act, 1923, within a period of 30 days from the date of passing of order, failing which, interest @12% per annum shall accrue on the compensation amount from the date of award till its realization.
02. Brief facts of the case are that, respondent No. 1 filed a claim petition before the Commissioner under the Employees Compensation Act, on

08.05.2003, whereby, he claimed compensation to the tune of Rs. 3,50,000/-.

03. The Commissioner, upon receipt of the claim petition, issued notice to respondent No. 2 herein, for appearance but he failed to appear and consequently, an *ex parte* award of Rs. 5,96,486/- including interest, was passed on 30.06.2014, in favour of respondent No. 1.
04. After the *ex parte* award, respondent No. 2 herein, filed an application to set aside the award, which was allowed subject to payment of costs, and the appellant-Company was impleaded as a party in 2016. The appellant-Company raised objections to the maintainability of the claim, but these were rejected. Subsequently, the Commissioner, Ramban, awarded Rs. 2,49,576/- to respondent No. 1, assessing the disability at 50% and also imposed interest of Rs.4,74,004/-@ 12% per annum from 08.05.2003 to 04.03.2020. In nutshell, an amount of Rs. 7,23,580/- stood awarded.
05. The appellant-Company challenged the direction requiring it to pay the interest amount, contending that under the terms of the insurance policy, it's liability was restricted to the principal compensation amount and did not extend to any interest or penalty arising from the employer's failure to comply with the provisions of the Workmen's Compensation Act, 1923.
06. Parties have not been appearing in this matter, hence, appeal is taken for disposal on merits.
07. The Appellant-Company is aggrieved of the impugned order on the following grounds:-

- (a) That the impugned award dated 04.03.2020 is illegal and contrary to law insofar as it fastens liability to pay interest upon the appellant-insurer despite the express exclusion clause in the insurance policy excluding liability towards payment of interest and penalty under the Employees' Compensation Act.
- (b) That under Section 4A of the Employees Compensation Act, the liability to pay interest for delayed payment of compensation rests upon the employer/insured, and the insurer cannot be directed to indemnify the insured in respect of such interest liability, particularly in view of the contractual exclusion clause.
- (c) That the Commissioner failed to consider the contractual exclusion clause, rendering the impugned order, to the extent it imposes interest liability upon the appellant-insurer, unsustainable and liable to be set aside.

08. From the perusal of the record, it transpires that this appeal is not accompanied by the certificate of deposit issued by the Commissioner to the extent that the appellant has deposited the award amount.

09. The provision of appeal is provided under Section 30 of the Employees "Compensation Act. For facility of reference, same is reproduced as under;

"30.Appeals-(1) An appeal shall lie to the High Court from the following order of a Commissioner, namely-

(a) xxxxx

(b) xxxxx

(c) xxxxx

(d) xxxxx

(e) an order refusing to register a memorandum of agreement or subject to conditions: registering the same or providing for the registration of the same.

Provided that no appeal shall lie against any order unless a substantial question of law is involved in the appeal, and in the case of an order other than an order such as is referred to in clause (b), unless the amount in dispute in the appeal is not less than three hundred rupees;

Provided further that no appeal shall lie in any case in which the parties have agreed to abide by the decision of the Commissioner, or in which the order of the Commissioner gives effect to an agreement come to by the parties;

Provided further that no appeal by an employer under clause (a) shall lie unless the memorandum of appeal is accompanied by a certificate by the Commissioner to the effect that the appellant has deposited with him the amount payable under the order appealed against.....”.

10. From the perusal of section 30 of the Act, it is apparent that no appeal by an employer under clause (e) shall lie unless the memorandum of appeal is accompanied by a certificate by the Commissioner to the effect that the appellant has deposited with the Commissioner an amount payable under the order appealed against.
11. Perusal of the record would reveal that the appeal came to be filed on 05.02.2022, but the same is not been accompanied by a certificate of deposit as provided under third proviso of Section 30. A Co-ordinate Bench of this Court in “*M/S Copenhagen Hospitality and Retails Vs. Amir Hussain & Anr*”, decided on 09.05.2025, has already held that

once an appeal is not accompanied by a certificate as per the clause (e), such appeal is not maintainable.

12. Section 30 also begins with the words that “no appeal by an employer shall lie” which makes it mandatory that the appeal has got to be accompanied with certificate of the Commissioner to the effect that the amount ordered by it has been deposited with him and would be payable subject to the orders passed by the Appellate authority or Court, hence there being non-compliance of Section 30, this appeal is held not maintainable and for the aforesaid reasons, the same is ***dismissed***, enabling the respondent to seek enforcement of award in accordance of law.
13. Copy of this order shall be notified to Assistant Labour Commissioner, Ramban.

(Sanjay Parihar)
Judge

Jammu
04.07.2026
Renu