

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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FAO No.4324 of 2011(O&M)
Date of decision: 17.02.2017

Neelam & others

....Appellants

Versus

Anil Kumar & another

...Respondents

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present: Mr.Surender Saini, Advocate, for the appellants.

Mr.Rajneesh Malhotra, Advocate, for respondent No.2.

G.S. SANDHAWALIA, J. (Oral)

Present appeal has been filed by the claimants, who are legal representatives of the deceased-Manoj Kumar, who died *en-route* from Dadri to Sonapat, between 28.09.2009 to 29.09.2009, on account of being murdered by some unknown persons. The Commissioner has awarded a sum of Rs.4,07,700/-, by taking the age as 32 years and applying the relevant factors as 203.85 and by directing that in case the payment is not made within 30 days, the Insurance-Company will be liable to pay interest @ 12% per annum from that date.

Counsel for the appellants has restricted his arguments on 2 aspects, namely, (i) on account of the fact that the interest was payable from the date it became due, i.e., the date after the accident and (ii) the factum of no penalty proceedings having been initiated. He has placed reliance for the said proposition upon the judgments of the Apex Court in **Oriental Insurance Company Ltd. Vs. Siby George 2012 (4) SCT 299** and **Saberabibi Yakubhai Shaikh Vs. National Insurance Co. Ltd. (2014) 2 SCC 298** to claim interest.

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It is to be noticed that the accident took place in September, 2009 and the case was decided on 21.09.2010. Resultantly, the substantial question of law which has been raised, is answered in favour of the claimants and they are held entitled for the interest element from the date of the accident. Accordingly, payment will be made by the Insurance Company, on whom the liability was fixed regarding the interest element also, within a period of 2 months from the receipt of a certified copy of this order.

Keeping in view the fact that Sections 4-A (3)(b) of the Workmen's Compensation Act, 1923 itself provides that where there is no justification for the delay, the employer shall, in addition to the amount of the arrears and interest thereon, pay a further sum not exceeding 50% of the said amount by way of penalty. Thus, the Commissioner will initiate the necessary show cause notice to the relevant parties and proceed ahead with that aspect also, which was not done in the present case.

The present appeal stands allowed, in the above-said terms.

February 17th, 2017
Sailesh

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned: *Yes/No*

Whether Reportable: *Yes/No*