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

% **Date of Decision: 10th August, 2017**

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USHA DEVI & ORS ..... Appellants

Through: Mr. G.P. Singh, Adv.

versus

M/S ADISH GOODS TRANSPORT CO & ANR ..... Respondents

Through: Mr. Diwan Singh Chandar, Adv. for R1.
Ms. Harsh Lata, Adv. on behalf of Ms. Shantha Devi Raman, Adv. for R2.
Mr. Nishank Tyagi, proxy counsel for Mr. Sanjoy Ghose, ASC for GNCTD.

CORAM:
HON'BLE MR. JUSTICE J.R. MIDHA

JUDGMENT (ORAL)

1. The appellant has challenged the order dated 01st December, 2016 whereby the Commissioner, Employees' Compensation has rejected the appellants' prayer for imposing penalty under Section 4A of the Employee's Compensation Act.

2. On 12th January, 2016, Hakim Singh was driving truck bearing No. DL-1LR-4994 during the course of his employment with respondent No.1. At about 7:30 am, the driver parked the truck near MRI Building at Shimla when the truck touched electric wire and caught fire which resulted in the

burn fatal injuries to the driver. The deceased was survived by his widow, three minor children and father who filed the application for compensation. The deceased was aged 33 years and was drawing a salary of Rs.20,000/- per month. The Claims Tribunals awarded compensation of Rs.8,06,640/- to the appellants and the said amount has been paid by respondent No.2 as the offending vehicle was validly insured with respondent No.2. The Commissioner, Employees' Compensation rejected the prayer for penalty on the ground that the delay in payment was not intentional.

3. Learned counsel for the appellant urged at the time of hearing that penalty up to 50% of the amount be imposed to the respondent No.1.

4. Learned counsel for respondent No.1 submits that respondent No.1 validly insured the offending vehicle with respondent No.2 and respondent No.1 intimated the accident to the insurance company. It is further submitted that respondent No.1 did not deposit the amount with Commissioner, Employees' Compensation as the offending vehicle was validly insured with respondent No.2.

5. Under the Employee's Compensation Act, employer is liable to deposit the compensation immediately when it falls due. Section 4A(3) of provides that if the compensation is not deposited within 30 days of its falling due, penalty amount up to 50% of the compensation amount can be imposed. In the present case, admittedly the compensation amount has not been deposited by respondent no.1 within 30 days of the accident due to which the appellants had to file the application for compensation before the Commissioner, Employees' Compensation on 02nd May, 2016. The Commissioner, Employees' Compensation passed the award on 01st December, 2016 in pursuance to which the compensation amount has been

deposited by respondent No.2 before the Commissioner, Employees' Compensation on 5th April, 2017 and the said amount has been released to the appellants by this Court vide order dated 25th May, 2017. In the facts and circumstances of this case, this Court imposes the penalty of Rs.1,75,000/- on respondent No.1 under Section 4A(3) of Employee's Compensation Act. The appeal is allowed in the above terms.

6. Respondent No.1 is directed to deposit the penalty amount of Rs.1,75,000/- with UCO Bank, Delhi High Court Branch within 30 days from today by means of a cheque drawn in the name of UCO Bank A/c Usha Devi within four weeks.

7. Upon the aforesaid amount being deposited, UCO Bank, Delhi High Court Branch is directed to release a sum of Rs.25,000/- to respondent No.1, Usha Devi by transferring the same to her savings bank account No.36887138998 with State Bank of India, Gujrawala Town, A4, Ground Floor Branch, New Delhi (IFSC Code: SBIN0032284, MICR Code: 110002646).

8. The balance amount of Rs.1,25,000/- be kept in 25 FDRs of Rs.5,000/- each in the name of respondent No.1 for the period 1 month to 25 months respectively with cumulative interest.

9. All the original FDRs shall be retained by UCO Bank, Delhi High Court Branch. However, the statement containing FDR number, FDR amount, date of maturity and the maturity amount be furnished to respondent No.1.

10. The maturity amounts of the FDRs along with interest shall be transferred to the aforesaid savings bank account of respondents No.1.

11. No loan or advance or pre-mature discharge shall be permitted

without the permission of this Court.

12. No cheque book or debit card be issued to respondents No.1 without permission of this Court. However, in case, the debit card/cheque book have already been issued, State Bank of India, Gujrawala Town, A4, Ground Floor Branch, New Delhi shall cancel the debit card and/or cheque book within two weeks.

13. UCO Bank, Delhi High Court Branch shall send the compliance report to this Court within two weeks.

14. List for reporting compliance on 24th October, 2017.

15. Copy of this judgment be sent to State Bank of India, Gujrawala Town, A4, Ground Floor Branch, New Delhi and UCO Bank, Delhi High Court Branch for compliance.

16. Copy of this judgment be given *dasti* to counsel for the parties under the signature of the Court Master.

AUGUST 10, 2017 **J.R. MIDHA, J.**

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