

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**MAC No. 122 of 2018**

M/s Sundar Electrical, Through Its Proprietor Raghuveer Prasad Sinha, Son Of R. N. Mahto, Aged About 45 Years, Occupation- Electric Contractor, R/o M. I. G. 611, Hudko Bhilai, Tahsil And District Durg, Chhattisgarh.

---- Appellant**Versus**

1. Chaitram Patel S/o. Palturam Patel, Aged About 48 Years R/o. Village Jhalmala, Post Jhalmala, Tahsil Balod, District Durg, Chhattisgarh.
2. Smt. Lila Bai, W/o Chaitram Patel, Aged About 45 Years R/o Village- Jhalmala, Tahsil Balod, District Durg, Chhattisgarh.
3. Arun Sharma, Resident Of Village And Post Office Dhaneli, Thana Dharsinwa, District Raipur, Chhattisgarh.
4. Chhattisgarh State Electricity Board, Through Its Junior Engineer, Dharsinwa, District Raipur, Chhattisgarh.
5. The Oriental Insurance Company Limited, Through Divisional Manager, Divisional Office Malviya Nagar, Durg, District Durg, Chhattisgarh.

----Respondents

For Appellant	:	Mr. Jitendra Gupta, Advocate
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Hon'ble Shri Justice P. Sam Koshy**Order on Board****22/01/2018**

1. Present is an appeal under Section 30 of the Employees Compensation Act assailing the award dated 22.12.2017, passed by the Commissioner for Workmen's Compensation, Labour Court, Durg, Chhattisgarh, in Case No. 144/W.C.Act/2006/Fatal, whereby the Commissioner for Workmen's Compensation has imposed a penalty upon the appellant of an amount of Rs.1,45,600/-.
2. The brief fact of the case is that the deceased in the instant case met with an employment related accident on 26.09.2006, in which he died. The legal representatives of the deceased filed a claim case before the Labour Court, Durg which was registered as Case No.

144/W.C.Act/2006/Fatal. The Labour Court vide the award dated 25.08.2009 has allowed the application awarding a compensation of Rs.2,91,200/- and at the same time penalty of 50% of the said amount of Rs.1,45,600/- was awarded against the present appellant. The present appellant and the Insurance Company both had preferred two separate appeals i.e. MAC No. 1622/2009 and MAC No. 1431/2009 and this Court vide order dated 11.09.2017 had dismissed the appeal of the Insurance Company i.e. MAC No. 1622/2009. However, the appeal by the present appellant i.e. MAC No. 1431/2009 was allowed and the award so far as imposing of the penalty was set-aside and the matter was remitted back for afresh adjudication of the case after giving an opportunity of hearing to the employer. The Commissioner now vide the impugned award dated 22.12.2017 has passed a fresh order and again imposed a penalty of 50% of the amount awarded i.e. to the tune of Rs.1,45,600/-. It is this order which is under challenge in the present appeal.

3. The contention of the counsel for the appellant is that the order is bad in law for the reason that it has not been established before the Court below whether the accident arose out of and in the course of employment. Secondly, there was no deliberate withholding of compensation by the present appellant in as much as they had initially paid an amount of Rs.25,000/- immediately to the family members of the deceased, which shows that they were genuinely helping the legal representatives of the deceased and therefore they should not have been imposed with the penalty. Further it was contended that the imposition of penalty to the tune of 50% of the

award is also on the higher side and it could have been much less than what has been awarded.

4. A perusal of the record and the ground raised by the appellant is concerned, this Court does not find the ground of the accident not having occurred in the course and arising out of the employment to be strong ground for the reason that the appeal of the Insurance Company against the award in another case has already been rejected and as such the award to that extent has attained its finality.
5. So far as the appeal on the other ground is concerned, this Court does not find any strong case made out by the appellant which could be considered as a substantial question of law for admitting the present appeal as Section 30 requires the appeal to be admitted only in case if there are substantial question of law available.
6. Thus, all the grounds which are raised by the appellant are finding of fact and the Tribunal's earlier award arising out of the same accident dated 25.08.2009 has already been affirmed by this Court.
7. Thus, this Court does not find any strong case made out by the appellant in the present appeal; the same thus requires to be and is therefore dismissed.

Sd/-
(P. Sam Koshy)
Judge