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HIGH COURT of CHHATTISGARH, BILASPUR

MAC No. 833 of 2011

M/s Mahaveer Kedia Through Mahaveer Prasad Kedia, S/o B.L. Kedia, R/o G.I. Road, Telibandha, Raipur, Present R/o T.P. Nagar In Front Of R.K. Builder Korba And District Korba.

---- Appellant

Versus

1. Sitaram Jaiswal S/o Ghasiya Ram, aged about 47 years.
2. Smt. Sushila Bai W/o Sitaram, aged about 44 years.
3. Ram Narayan S/o Sitaram, aged about 22 years.
4. Ambalika Kumari D/o Sitaram, aged about 20 years.
   All R/o village Mungadih, Tah. Pali, Distt. Korba (CG).
5. National Insurance Company Through Branch Manager Office-13, Minu Complex, Main Road Kosabadi Korba (CG).

---- Respondents

For Appellant	:	Shri Vineet Pandey, Advocate.
For Claimants	:	Shri AL Singroul, Advocate.
For Respondent No.5	:	Shri Qamrul Aziz, Advocate.

SB: Hon'ble Shri Justice P. Sam Koshy

Order On Board

17.01.2018

1. The present appeal under Section 30 of the Workmen's Compensation Act, 1923 (in short, the Act, 1923) has been filed assailing the award dated 27.12.2010 passed by the Commissioner for Workmen, Labour Court, Korba in Case No.30/WC Act/2009 (Fatal). Vide the impugned award, the Labour court while granting compensation of Rs.4,36,940/- along with interest @ 6 percent per annum from the date of accident, has also imposed penalty of Rs.50,000/- upon the appellant-employer.
2. Learned counsel appearing for the appellant submits that it is a case where the order of imposition of penalty is bad in law on the ground that no sufficient show cause notice was issued before imposition of

penalty as is required under Section 4-A of the Act, 1923.

3. A perusal of records would show that the date of accident was 13.02.2009 and the award was passed by the Commissioner on 27.12.2010 i.e. almost after two years and that the present appellant and the insurance company has been contesting the case on merits for these two years depriving the claimants the benefit of compensation which otherwise they were legally entitled for under the Act, 1923. It is also a case where the appellant-employer has been participating in the proceedings before the court all along before the final order was passed including imposition of penalty.

4. Under the said circumstances, this court does not find any strong case made out by the appellant-employer calling for an interference with the impugned award so far as imposition of penalty against the appellant is concerned.

5. The appeal thus fails and is accordingly rejected.

Sd/-
(P.Sam Koshy)
Judge

inder