

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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FAO No. 312 of 1989

Date of decision: 07.02.2018

Kuldeep Kaur through her LRs and others

..Appellants

Vs.

G.M. Haryana Roadways and another

..Respondents

CORAM: HON'BLE MR. JUSTICE AJAY TEWARI

Present: Ms. Jaideep Kaur, Advocate
for Mr. J.S. Thind, Advocate
for the appellants.

Dr. Sushil Gautam, DAG, Haryana.

AJAY TEWARI, J.(ORAL)

This appeal has been filed against the order of the Commissioner passed under the Workmen Compensation Act, declining the payment of penalty and interest.

The brief facts are that deceased Gurcharan Singh, who was employed in Haryana Roadways, Sirsa died on 30.11.84 on duty. Claim petition was filed by the appellants, who were his legal heirs, which was allowed in the month of March/April 1985 awarding compensation of ₹69,248/-. The respondents however, deposited the amount of compensation only on 1.5.86. Consequently the instant application has been filed for claiming interest and penalty.

The Commissioner, in its order has held that immediately after the award was passed, the respondents have moved for permission to make the payment and as soon as the sanction of Government was received, the payment was duly credited and consequently held that there was no

'intentional delay' and thus dismissed the application.

In my considered opinion, the approach of the Commissioner was vitiated as Sub Section 4-A of the Employees Compensation Act, 1923 (hereinafter referred to as "the Act") states that compensation under Section 4 shall be paid as soon as it falls due.

The Supreme Court in **Oriental Insurance Company Ltd. Vs. Siby George and Others, 2012 ACJ 2126** has held that an employer becomes liable to pay compensation as soon as the personal injury is caused to the workmen, the relevant extract of which is reproduced as under:-

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3. A four Judge Bench of this Court in Pratap Narain Singh Deo v. Srinivas Sabata, (1976) 1 SCC 289: (AIR 1976 SC 222:1976 Lab IC 222) speaking through Singhal, J. has held that an employer becomes liable to pay compensation as soon as the personal injury is caused to the workmen by the accident which arose out of and in the course of employment. Thus, the relevant date for determination of the rate of compensation is the date of the accident and not the date of adjudication of the claim.

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12. In light of the decisions in Pratap Narain Singh Deo and Valsala, it is not open to contend that the payment of compensation would fall due only after the Commissioner's order or with reference to the date on which the claim application is made. The decisions in Mubasir Ahmed and

Mohd. Nasir insofar as they took a contrary view to the earlier decisions in Pratap Narain Singh Deo and Valsala do not express the correct view and do not make binding precedents”.

In view of this determination of law, it has to be held that the compensation in the present case has fallen due on 31.12.1984 i.e. after 30 days when the death had taken place. As regards the penalty also the fact that the respondent had to apply for sanction to the Government had no concern with the appellant and thus, it cannot be held to be justified delay.

Resultantly, penalty is also payable. The appeal is, therefore, allowed and the appellants are entitled to recover a sum of ₹ 34,624 as penalty plus ₹6210 as interest upto 1.5.86. They are also entitled to further interest w.e.f. 01.05.1986 till the date of payment @ 12% per annum on these amounts.

Since the main case has been decided, the pending C.Ms , if any, also stand disposed of.

February 07, 2018

Poonam (II)

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No