

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

361

FAO No.1778 of 1997 (O&M)

Date of Decision :08.05.2018

National Insurance Company Limited

..... Appellant

Versus

Boota Singh and others

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present :- Mr. Sandeep Suri, Advocate
for the appellant.

Mr. R.S.Mamli, Advocate
for respondent No.3.

Mr. Anand Chibbar, Senior Advocate with
Mr. Lalit Thakur, Advocate
for respondent No.4.

AJAY TEWARI, J. (Oral)

This appeal has been filed by the Insurance Company against the order dated 30.06.1997 passed by the Commissioner, Yamuna Nagar under the Workmen's Compensation Act, 1923. Since a very limited point has been raised further detailed reference to the facts is not necessary.

The solitary contention raised by the learned counsel for the appellant is that out of the total assessed compensation of Rs.88,548/- an amount of Rs.86,764/- was deposited in Court on 15.05.1996. As per learned counsel for the appellant it is clear that there was a short fall only of Rs.1,784/-. Consequently, there was no occasion for the Commissioner who

erred in awarding a composite amount of Rs.20,000/- as penalty and interest and foisted the entire liability on the Insurance Company whereas in accordance with a judgment of the Supreme Court passed in **Ved Prakash Vs. Premi Devi (1997) 8 SCC 1** penalty is payable by the employer and the Insurance Company can only be burdened with the interest, if at all it is justified in these facts of the case.

Learned counsel for the claimant has fairly accepted and the employer have fairly accepted that a composite fixation of penalty and interest is incorrect and further that the Insurance Company is not liable to pay the penalty.

Having gone through the entire facts of the case, I deem it appropriate to hold that the claimants would be entitled to interest @ 6% from a date one month after the date of the accident till the date of payment. As regards the penalty, I deem it appropriate to award 10% penalty which shall be payable by respondents No.3 & 4.

Appeal stands disposed of with the above terms.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

(**AJAY TEWARI**)
JUDGE

08.05.2018
Pooja sharma-I

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No