IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

386

FAO-549-1996 (O&M)
Date of Decision : 09.03.2018

National Insurance Company Ltd. ...... Appellant

Versus

Ram Kewal and another ...... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

***

Present : None.

***

AJAY TEWARI, J. (Oral)

On 27.02.1996 the following order was passed:-

> *"Submits that interest beyound 6% and penalty at the rate of 20% have been wrongly imposed on the Insurance Company. To this extent, the award is challenged.*
>
> *Issue notice of motion to the respondents on the aforesaid legal points only. To come up on 11.04.1996.*
>
> *Recovery of penalty and interest beyond 6% are stayed."*

Since there is a very limited challenge in this appeal further detailed reference to the facts is not necessary. The insurance company is claiming that interest beyond 6% could not have been allowed and penalty could not have been foisted on it since Section 4(a) of the Act at the relevant time prescribed a maximum ceiling of 6% interest. I find this to be indeed so. Consequently, interest @ 12% could not have been awarded.

Further as regards penalty, the Hon'ble Supreme Court in the matter of ***Oriental Insurance Co. Ltd. vs. Siby George and Others,*** **2012 (12) SCC 540,** has held that the liability to pay penalty is on the employer.

Consequently, it has to be held that the liability for penalty was wrongly foisted on the appellant.

In the circumstances, the appeal is disposed of. It is directed that interest would be 6% and the penalty amount would be payable by the respondent No.2.

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

(AJAY TEWARI)
JUDGE

March 09, 2018
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Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No