

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

241

FAO No.6585 of 2017 (O&M)

Date of decision: 19.03.2019

SEHRUNA & ORS

... Appellants

Versus

ABDUL BHAI & ANR

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Barjinder Singh, Advocate for the appellants.
Mr. Neeraj Khanna, Advocate for the insurance company.

REKHA MITTAL, J. (Oral)

CM-21226-CII-2017

Prayer in this application is for condonation of delay of 207 days in filing the appeal.

In view of averments made in the application supported by an affidavit of appellant No.1 coupled with that provisions of the Employees Compensation Act, 1923 providing for compensation are benevolent social legislation, application is allowed and delay of 207 days in filing the appeal is condoned.

Main Case

The claimants are in appeal seeking enhancement of compensation assessed by the Commissioner under the Employees Compensation Act, 1923 (in short 'the Act').

Counsel for the appellants has made two fold submissions to assail the impugned order. It is argued that interest @ 12% per annum has been allowed from 23.08.2013 in place of from the date of accident i.e. 24.11.2011. The second submission made by counsel is that there is no reference in the impugned order with regard to liability of employer to pay penalty who was proceeded against ex parte before the authority below.

The contention raised by counsel for the appellants with regard to entitlement of the claimants to get interest from the date of accident is meritorious when examined in the light of judgments of Hon'ble the Supreme Court **Oriental Insurance Company Ltd. Vs. Siby George, 2012**

(4) RCR (Civil) 617 and Saberabibi Yakubbbhai Shaikh and others Vs.

National Insurance Company Ltd. and others, 2014(1) RCR (Civil) 731.

Accordingly, claimants shall be entitle to interest @ 12% per annum on compensation of Rs.8,54,280/- w.e.f. 24.11.2011 till realisation.

So far as plea of the claimants with regard to entitlement to penalty from the employer, the present appeal stands disposed of but with liberty to the appellants to file an application before the Commissioner concerned for deciding the question of penalty. In case such an application is filed within a period of two months, the same shall be decided by the Commissioner on merits but after affording an opportunity of hearing to respondent No.1, in accordance with law.

The appeal is partly allowed in the aforesaid terms.

19.03.2019

ashok

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes / No
Yes / No