

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

FAO No. 7494 of 2015(O&M)

Date of decision: 10.5.2019

Rukhsheena and others

.....Appellants

VERSUS

Sunil Kumar and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Charanji Lal, Advocate for the appellants.

REKHA MITTAL, J. (Oral)

The claimants are in appeal seeking enhancement of compensation assessed by the Commissioner, Gurgaon Circle-4 under the Employees' Compensation Act, 1923 (in short 'the Act').

The first submission made by counsel for the appellants is that interest at the rate of 12% per annum has been awarded from the date of filing of the application i.e. 12.12.2012 in place of from the date of occurrence i.e. 25.08.2012. Another submission made by counsel is that the Commissioner has not imposed penalty for failure of the employer to pay compensation within the stipulated period of 30 days from the date of occurrence.

The first contention raised by counsel for the appellants is the result of his failure to read the impugned order with care. As a matter of fact, interest with effect from 12.12.2012 till the date of order was assessed, to be paid by the insurance company whereas liability to pay interest with effect from 25.08.2012 to 11.12.2012 has been fastened against the employer for the reason that owner failed to inform the insurance company about the incident. Anyhow, the appellants have been

awarded interest w.e.f. the date of occurrence and not from the date of filing of petition.

So far as plea of the appellants with regard to non-payment of penalty, the Commissioner has already issued a show cause notice to the employer calling upon him as to why the penalty should not be imposed for failure to deposit compensation within one month. In place of pursuing remedy before the Commissioner, the appellants filed this appeal after a delay of 453 days. In the given scenario, there is no merit in the appeal preferred by the appellants.

In view of what has been discussed hereinbefore, the appeal stands disposed of. The appellants are left at liberty to pursue their remedy for payment of penalty before the Commissioner concerned. The Commissioner concerned shall decide the question of penalty expeditiously, if not already decided.

MAY 10, 2019

‘D. Gulati’

(REKHA MITTAL)

JUDGE

Whether speaking/reasoned : yes/no

Whether reportable : yes/no