

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

FAO-1526-2013 (O&M)

Date of Decision: 14.7.2023

Murti Devi

....Appellant

VERSUS

Satbir Singh and another

....Respondents

CORAM:- HON'BLE MR. JUSTICE KARAMJIT SINGH

Present : Mr. R.K.Saini, Advocate,
for the appellant.

Mr. R.K.Bashamboo, Advocate,
for respondent No.2

KARAMJIT SINGH, J.

The appellant has filed this appeal to challenge order dated 31.5.2012 passed by the Court of Commissioner under Workmen's Compensation Act (in short, "Commissioner") whereby the application filed by appellant-Murti Devi for grant of compensation on account of death of his son-Sandeep Kumar who was working as a cleaner/helper on truck No.HR20-GA-0750 in a motor vehicle accident involving the said truck which was owned by respondent No.1-Satbir Singh and was insured with respondent No.2-insurance company.

2. Counsel for the appellant submits that the compensation worth ₹5,24,485/- along with interest was awarded by the Commissioner while passing the impugned order and that the said amount of compensation has already been received by the appellant from the insured. He, while assailing the impugned order, submits that in the instant case, employer-Satbir Singh failed to pay compensation within one month as per provisions of Section

4A of Workmen's Compensation Act and as such, the appellant also claimed the amount of penalty as per law. However, while passing the impugned order, learned Commissioner ignored this fact and had not imposed any penalty on employer. He further submits that the impugned award requires to be modified to that extent.

3. On the other hand, counsel for the insurance company submits that there is nothing wrong in the impugned order; that all the material facts of the case were taken into consideration by the learned Commissioner while passing the impugned order of compensation. It is further submitted that the insurance company has already deposited the entire amount of compensation with the learned Commissioner. It is further submitted that as far as penalty is concerned, the provision of Section 4A of the Workmen's Compensation Act is very clear and only employer is liable to pay such penalty and no penalty could be imposed on the insurance company even if the employer failed to deposit the amount of compensation within the statutory period of one month as per mandate of Section 4A of the Workmen's Compensation Act.

4. I have considered the submissions made by the counsel for the parties.

5. Admittedly, counsel for the appellant failed to point out any illegality or infirmity in the impugned order as far as component of compensation awarded to the appellant is concerned. However, the impugned order is silent as regards the penalty as provided under Section 4A of the Employee's Compensation Act. It is apparent that in the present case, compensation was not deposited by the employer within the prescribed

period as per the provisions of Section 4A of Employee's Compensation Act. The question of imposing penalty under Section 4A of Employee's Compensation Act is to be adjudicated by the learned Commissioner after giving show cause notice in this regard to the employer. Further, the insurance company cannot be held liable to pay any such penalty on behalf of the employer and it is employer only who is responsible to pay penalty, if any, imposed by the learned Commissioner as per provisions of Section 4A of Employee's Compensation Act.

6. In light of above, the present appeal is hereby disposed of with direction to the learned Commissioner to decide the issue with regard to penalty in accordance with provisions of Section 4A of Employee's Compensation Act after issuing show cause notice in this regard to the employer while keeping in tact the award of compensation worth ₹ 5,24,485/-. The appellant is directed to appear in the Court of learned Commissioner on 28.8.2023.

(KARAMJIT SINGH)
JUDGE

July 14, 2023
Paritosh Kumar

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No