

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

**FAO No.774 of 2008
Date of Decision: 05.04.2024**

The Oriental Insurance Company Ltd.

... Appellant

Versus

Sewa Ram and others

... Respondents

CORAM: HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA

Present:- Mr. D.P. Gupta, Advocate and
Mr. Shubham Gupta, Advocate
for the appellant-Insurance Company.

Respondents No.1 to 5 proceeded against
ex-parte vide the order dated 15.01.2009.

Vide order dated 14.07.2009, respondent No.6
deemed to have been served.

MEENAKSHI I. MEHTA, J.

Feeling aggrieved and dis-satisfied with the order as passed by the Commissioner (for short 'the Competent Authority') under the Workmen's Compensation Act, 1923 (for short 'the Act of 1923'), Batala on 12.11.2007, whereby respondents No.1 to 5-claimants (here-in-after to be referred as 'the claimants') have been awarded compensation to the tune of Rs.2,59,975/-, along-with interest @ 12% per annum from the date of accident till its realization, on account of the death of Palwinder Singh in an accident, while further observing that in case of default in the deposit of this amount within 45 days from the date of the order, the interest would be

payable @ 18% per annum, the appellant-Insurance Company has chosen to prefer the instant appeal to lay challenge to the same.

2. Bereft of unnecessary details, the facts, as emanating from the perusal of the file and culminating in the filing of the present appeal, are that the claimants, who happened to be the father, wife and the children of said Palwinder Singh respectively, filed the Claim Application for seeking compensation from respondent No.6-employer (here-in-after to be referred as 'the employer') and the appellant-Insurance Company (here-in-after to be referred as 'the insurer') and they had averred therein that the afore-named deceased had been working with the employer as 'Cleaner' on the Truck bearing registration No.PB-06-E-2536. On 14.06.2005, the deceased, along-with Driver-Sewa Singh, went to Moga in the above-said Truck and when they were returning to their vehicle after taking the meals (dinner), another Truck came there from Ludhiana side and it hit the deceased and thereafter, its driver escaped from the spot, along-with it. The deceased sustained multiple injuries in this accident and succumbed to the same. The employer and the insurer (arrayed as respondents No.1&2 in the Claim Application) filed their separate written-statements, contesting the claim of the claimants therein, on various grounds. Then, the parties had been put to the trial by framing the issues and after appreciating and evaluating the evidence, as adduced by them on the record and hearing their counsel, the Competent Authority allowed the afore-referred Claim Application and awarded compensation to the claimants, as already indicated in the opening para of this judgment.

3. I have heard learned counsel for the appellant-insurer in the instant appeal and have also perused the file carefully.

4. Learned counsel for the insurer contend that the Competent Authority erred in allowing the interest on the amount of compensation, from the date of the above-mentioned accident whereas it should have been awarded from the date of the impugned order.

5. However, the afore-raised contention is not tenable at all, in view of the verdict, as handed down by the four Judges' Bench of the Apex Court in **Pratap Narain Singh Deo versus Shrinivas Sabata and another, 1976 AIR (SC) 222** to the effect that "*the employer became liable to pay the compensation as soon as the personal injury was caused to the workman by an accident which admittedly arose out of and in the course of the employment*".

6. Learned counsel for the insurer further contend that the Competent Authority had wrongly granted the penal interest @ 18% per annum, in the eventuality of default in depositing the above-said amount within 45 days from the date of the impugned order, because Section 4A(3) (a) of the Act of 1923 provides for awarding interest @ 12% per annum.

7. Section 4A(3)(a) of the Act of 1923 provides that in case of the default on the part of the employer in paying the compensation as due under this Act, the employer would be liable to pay the simple interest @ 12% per annum or at such higher rate, not exceeding the maximum of the lending rates of any Scheduled Bank, as may be specified by the Central Government, by notification in the Official Gazette, on the amount due. In

the present case, there is nothing on the file to show that on the relevant date, the maximum lending rate, so notified qua any such Bank, was more than/above 12% per annum. Moreover, the afore-referred provisions do not provide for granting penal interest. It being so, it is held that the impugned order is not legally sustainable to the extent of the grant of interest @ 18% per annum.

8. As a sequel to the fore-going discussion, the appeal in hand stands partly dismissed so far as it pertains to the date of grant of interest on the amount of compensation and is partly allowed to the effect that the impugned order is, hereby, set-aside to the extent of award the interest @ 18% per annum, in the eventuality of default in depositing the amount of compensation within 45 days from the date of the impugned order.

05.04.2024
pooja

(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned: Yes
Whether Reportable: No