IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No.1493 of 2018 (O&M)

ROSHNI AND OTHERS …Appellants

Vs

SHOKAT AND ANOTHER …Respondents

1	The date when the judgment was reserved	02.07.2026
2	The date when the judgment is pronounced	10.07.2026
3	The date when the judgment is uploaded on the website	10.07.2026
4	Whether only operative part of the judgment is pronounced or whether the full judgment is pronounced	Full
5	The delay, if any, of the pronouncement of full judgment, and reasons thereof.	Not applicable

CORAM: *HON'BLE MR. JUSTICE HARKESH MANUJA*

Present: Mr. Digvijay, Advocate for
Mr. Ashish Gupta, Advocate
for the appellants.

Mr. Abhimanyu Batra, Advocate
for respondent No.2.

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HARKESH MANUJA, J.

1. The present appeal has been preferred under Section 30 of the Employees' Compensation Act, 1923 (for short, "the Act") assailing the award dated 27.07.2017 passed by the learned Commissioner under the Employees' Compensation Act, Gurgaon, whereby compensation to the tune of Rs.8,61,120/- along with interest @ 9% per annum from the date of filing of the claim petition was awarded to the appellants.

2. The appellants primarily assailed the impugned award on the grounds that the learned Commissioner erred in awarding interest only @ 9% per annum from the date of institution of the claim petition instead of awarding statutory

interest @ 12% per annum from the date the compensation became due. It was further contended that despite the failure of the employer to discharge the statutory obligation of payment of compensation within the prescribed period, the learned Commissioner failed to award penalty under Section 4A(3)(b) of the Act.

3. Having heard learned counsel for the parties and perused the record, this Court finds that the quantum of compensation determined by the learned Commissioner was not seriously pressed before this Court and, therefore, the findings recorded with respect thereto do not call for interference.

4. The first issue pertains to the award of interest. Section 4A of the Act casts a statutory obligation upon the employer to pay compensation as soon as it falls due. In the event of default beyond one month, the Commissioner is empowered to direct payment of interest at the prescribed statutory rate. This issue is no longer *res integra.* The Hon'ble Supreme Court in ***Partap Narain Singh Deo vs. Shrinivas Sabata*** reported as ***1976 (1) SCC 289,*** has categorically held that compensation becomes due on the date of the accident itself and not on the date of adjudication by the Commissioner. The said principle has consistently been followed by the Hon'ble Supreme Court including in ***Kerela State Electricity Board vs. Valsala K.*** reported as ***1999 (8) SCC 254.***

5. In the present case, the accident occurred on 14.02.2016, whereas the learned Commissioner awarded interest only @ 9% per annum from the date of filing of the claim petition. Such a direction is clearly contrary to the mandate of Section 4A of the Act and the law laid down by the Hon'ble Supreme Court. Accordingly, the appellants are held entitled to interest @ 12% per annum on the

awarded compensation from the date of the accident i.e. 14.02.2016 till its actual realization.

6. The second issue pertains to the grant of penalty. Section 4A(3)(b) of the Act empowers the Commissioner to impose a penalty not exceeding 50% of the amount of compensation where there is no justification for the delay in payment. However, levy of penalty is not automatic and depends upon the conduct of the employer and the existence or otherwise of any justification for withholding payment.

7. The Hon'ble Supreme Court in ***Ved Prakash Garg vs. Premi Devi 1997 INSC 671,*** has authoritatively held that while interest forms part of the statutory liability arising out of delayed payment of compensation, the liability to pay penalty is personal to the employer and ordinarily cannot be fastened upon the insurer. The imposition of penalty is punitive in nature and necessarily depends upon the conduct of the employer after affording an opportunity of hearing.

8. In the present case, respondent No.1 neither deposited the statutory compensation within one month of the date of accident nor disclosed any justifiable cause for such default. Rather, respondent No.1 chose not to contest the proceedings before the Commissioner and was proceeded against ex parte. Even thereafter, no amount was voluntarily deposited. The conduct of respondent No.1 clearly demonstrates deliberate disregard of the statutory obligation cast under Section 4A of the Act.

9. Having regard to the facts and circumstances of the case, this Court is satisfied that the present case warrants imposition of penalty. Therefore, this Court

deems it appropriate to impose penalty @ **50% of the compensation awarded**, payable solely by respondent No.1-employer. The insurer shall have no liability towards payment of the penalty amount.

10. In view of the foregoing discussion, the present appeal is partly allowed. The award is modified to the extent that the appellants shall be entitled to **interest @12% per annum on the compensation amount from the date of the accident, till the date of actual realization.** Furthermore, Respondent No.1-employer shall pay **penalty equivalent to 50% of the compensation awarded** under Section 4A(3)(b) of the Employee's Compensation Act, 1923.

11. The appeal stands disposed of in the above terms. Pending miscellaneous application(s), if any, shall also stand disposed of.

(HARKESH MANUJA)
JUDGE

July 10, 2026
Atik

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