

BEFORE SH. S.C YADAV, COMMISSIONER
(UNDER EMPLOYEES' COMPENSATION ACT, 1923)
LABOUR DEPARTMENT, GOVT. OF N.C.T. OF DELHI
5, SHAM NATH MARG, DELHI-110054

No.CEC-I/NE/30/17/1253.

Dated: 02/12/2021.

IN THE MATTER OF :

Hashim S/o Sh. Waliyan
R/o H.No 4833, Gali No 6,
Old Seelampur, Delhi

.....Applicants

Versus

Sh. Sonu @ Senu S/o Khajan Singh
R/o 4090-4091, Gali No. 17,
Shanti Mohalla, Old Seelampur,
Delhi

..... Respondents

ORDER

1. By this order, I will dispose of issue of penalty in this Matter.
2. The issue is limited in this case to the extent of penalty u/s 4A of the Act. In reference to the Show Cause notice dated 21/12/2020 u/s 4 A of Act respondent no 1 did not file any reply despite given sufficient opportunities, on the other side respondent no 2 Ins. Com. filed its response vide reply dated 18/02/2021 same is filed on 29/07/2021, wherein respondent no 2 denied any liability towards penalty on the ground that additional premium was not charged by the company only driver was covered of all the risks of vehicle bearing No DL-1U-4686. Further respondent no 2 also denied employee-employer relationship with claimant and respondent no 1. Respondent no 1 had never given any information to the insurance com. (R2) regarding alleged incident and circumstances in which accident was occurred as such respondent no 2 cannot be held responsible for the payment of penalty.
3. In the last Ld. Counsel Sh. S.K Sharma appearing for respondent no 2 argued that if any issue of penalty is considered by this court that may be fastened upon respondent no 1.



4. I have seen the proceedings of this case and found that neither petitioner nor respondent no 1 appeared in defence for application u/s 4A, while it was the responsibility of petitioner as well as respondent no 1 to explain the reason and facts of the accident, whether any liability for penalty can be imposed upon them or not.
5. In view of above submission of respondent no 2 and not denial by respondent no 1 as such I am of the considered view that respondent no 1 has not complied Section 4 of the Act. As per section 3 of the Act responsibility is casted upon respondent to comply the provisions of the Act. Further respondent no 1 has not placed any documents on record to show that after accident immediately he has informed respondent no 2 about the accident. In these circumstances I hold that respondent no 1 has failed to discharge his duty under section 4, hence penalty 50% can be imposed upon respondent no 1. Accordingly I hold that respondent No 1 is responsible for paying penalty 50% of the awarded amount of Rs. 2,44,620/-. Accordingly **I direct respondent no 1 Sh. Sonu @ Senu S/o Khajan Singh to deposit 50% penalty of Rs. 2,44,620/- which comes Rs. 1,22,310/-** by way of demand draft in favour of Commissioner Employees Compensation within 30 days from receipt of this order.
6. Given under my hand and seal of this Authority on this 11th day of November, 2021.

(S.C. Yadav)
Commissioner

Employee's Compensation Act, 1923

