

**BEFORE SH. S. C. YADAV, COMMISSIONER
(UNDER EMPLOYEE'S COMPENSATION ACT, 1923)
LABOUR DEPARTMENT, GOVT. OF NCT OF DELHI
5 – SHAM NATH MARG, DELHI-110054**

No. ECI/71/NW/2019/203.

Dated: 24/01/2025.

IN THE MATTER OF:

Sh. Pramod S/o Sh. Munshi Lal Sakhawar

R/o Ward No. 12, Keshav Patwari Gali Ambah,
District Muraina, Madhya Pradesh-476001

.....Applicant/Claimant

Versus

M/s Stree Shakti

Khasra No. 444/447,
Alipur Garhi, Delhi-110036

.....Respondent

ORDER

1. Vide this order, I will dispose of an application dated 11.12.2024 filed by the claimant for seeking penalty equivalent to 50 % of awarded amount of compensation under section 4A of the Employee's Compensation Act, 1923.
2. Show Cause Notice dated 26.12.2024 was issued to the respondent to show cause as to why penalty should not be imposed upon them. Reply was filed by the respondent submitting firstly that relationship of employer and employee was disputed in the matter by the respondent but after the receipt of the order dated 31.10.2023 passed by this Authority, total awarded compensation amount alongwith interest amounting to Rs. 17,90,801/- has been deposited with this Authority on 01.12.2023 instead of challenging the order. Secondly it is also submitted that respondent is an NGO which is basically dealing in social welfare works of empowerment of poor, oppressed and needy women and a Non-Profit Organization. So considering the constitution of the organization and its welfare motive, lenient view may be taken against the respondent organization.
3. In order to support the above submission the respondent has relied on the judgment of Hon'ble Supreme Court of India in the matter of **Ved Prakash Garg Vs Premi Devi & Ors Civil Appeal No. 15700/1996 dated 25.09.1997**. The relevant portion is reproduced as under:



⁵ **4A. Compensation to be paid when due and penalty for default.—**

(1) Compensation under section 4 shall be paid as soon as it falls due.

(2) In cases where the employer does not accept the liability for compensation to the extent claimed, he shall be bound to make provisional payment based on the extent of liability which he accepts, and, such payment shall be deposited with the Commissioner or made to the 2 [employee], as the case may be, without prejudice to the right of the 2 [employee] to make any further claim.

⁶ [(3) Where any employer is in default in paying the compensation due under this Act within one month from the date it fell due, the Commissioner shall—

(a) direct that the employer shall, in addition to the amount of the arrears, pay simple interest thereon at the rate of twelve per cent. 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; and

(b) if, in his opinion, there is no justification for the delay, direct that the employer shall, in addition to the amount of the arrears and interest thereon, pay a further sum not exceeding fifty per cent. of such amount by way of penalty:

Provided that an order for the payment of penalty shall not be passed under clause (b) without giving a reasonable opportunity to the employer to show cause why it should not be passed.

4. Further in view of above provision of the Law Ld. Counsel for respondent submitted that Section 4A of the Act deals with the time for payment of Compensation as required to be computed under section 4. Sub Section (1) thereof mandates that compensation shall be paid as soon as it falls due.
5. Sub Section (2) thereof contemplates a situation wherein the employer though accepting his liability to pay compensation to his injured employee/person disputes be extend of the claim of compensation and in such a case Sub Section (2) enjoins in to make provisional payment based on the extend of accepted liability by depositing it with the Commissioner or to pay it directly to the workman. It is obvious that such an obligation of the employer would not arise under section 4-A Sub Section (2) if he totally disputes his liability to pay on grounds like the injured person being not his employee or that the accident was caused to him at a time when he was not in the course of employment or that the accident caused to him did not arise out of his employment. If such disputes are raised by the employer then his obligation to make provisional payment under Sub Section (2) of Section 4-A would not arise and his liability would depend upon the final adjudication by the Workmen's Commissioner at the end of the trial.



6. In that light when sub section (3) of 4-A is seen it becomes obvious that once the compensation due under this Act becomes ascertained either provisionally under Sub Section (2) or finally on adjudication by the Commissioner and if employer does not pay the same within 01 month from the date it does falls due, Commissioner can direct under Sub Section (A) of Section 4-A(3) interest @ provided therein and also penalty as contemplated by Sub Section (D) thereof as per the amended section 4-A (3) of the Compensation Act, but even under the un-amended section 4-A(3) which applied at relevant time a clear distinction is made by the legislature between imposition of penalty by way of further some not exceeding 50 % of compensation amount and the imposition of interest on the amount of compensation found payable when it is not paid within requisite time as and when it fell due. It is further argued that above judgment has been followed in FAO No. 378/2006 titled as “**National Insurance Co. Ltd. Vs Kashiram and Ors**” decided on 01.05.2008.
7. On the other side Ld. Counsel for claimant relied upon a decision of Hon'ble Supreme Court of India in **Pratap Narain Singh Deo Vs. Shrinivas Sabata and Anr.** decided on 04.12.1975. and pointed out therein that it was the duty of the appellant, under section 4-A (1) of the Act, to pay the compensation @ provided by Section 4 as soon as personal injury was caused to the Respondent. He failed to do so. What is worse, he did not even make a provisional payment under sub section (2) of Section 4, as has been stated, he went to the extent of taking the false pleas that the respondent was a casual contractor and the accident occurred solely because of his negligence then there are the further facts that he paid no heed to respondent's personal approach for obtaining the compensation. It will be recalled that the respondent was driven to the necessity of making an application to the Commissioner for settling the claim, and even there the appellant raised a frivolous objection as to the jurisdiction of the Commissioner and prevailed on the Respondent to file a memorandum of agreement setting the claim for a which was so grossly inadequate that it was rejected by the Commissioner. In these facts and circumstance, we have no doubt that the Commissioner was fully justified in making an order for the payment of interest and the penalty.
8. I am afraid that the above citation shall be of no help to the claimant because after going through the judgment, I have noticed that the above may be the observation of a Judge but not the ratio of the case. The facts of such case differs from the facts of present case. In the aforesaid cited case of Hon'ble Supreme Court of India, it was the connection of the employer Sh. Pratap Narain Singh Deo, who is proprietor of Cinema Halls that the workman was a casual contractor and accident took place solely due to his own negligence in response to contention of the workman that he was working as a carpenter for doing some ornamental work in Cinema Hall when he fell down and suffered injuries, not only this the employer also prevailed upon the workman to file a memorandum of



agreement of settling the claim for a some which was so grossly inadequate that it was rejected by the Commissioner. Under the above circumstance, penalty was imposed by observing that the employer went to the extent of taking the false pleas that the workman was a casual contractor and that the accident occurred soly because of his negligence.

9. The respondent "M/s Stree Shakti" in this case has also relied upon a judgment dated 12.03.2008 passed by Hon'ble Delhi High Court in WP (C) No 9299/2006 in **M/s Bhagat Brothers Vs Parasnath Upadhayay** and the relevant portion read as under :-

"The ratio of any decision must be understood in the backgrounds of the facts of the case. It has been said long time ago that a case is only an Authority for what it actually decides, and not what logically follows from it."

10. It is well settled that a little difference in facts of additional facts may make a lot of difference in the precedential value of decision.

11. The Hon'ble Supreme Court of India in **Bharat Petroleum Corporation Limited and Anr Vs. N.R. Vairamani and Anr.** AIR 2004 SC 778 had observed as under:-

Court should not place reliance on decision without discussing as to how the factual situation fits in with the fact situation of the decision on which reliance is placed. Observation of Courts are neither to be read as euclied's theorems nor as provisions of the statue and that to taken out of their context. These observations must be read in the context in which they appear to have been stated. Judgments of courts are not to be construed as statutes. To interpret words, phrases and provisions of statue, it may become necessary for Judges to embark into lengthy discussion but the discussion is meant to explain and not to define. Judge interpret statues, they do not interpret judgments. They interpret words of statues; their words are not to be interpreted as statues.

12. In **Ambika quarry works Vs State of Gujarat and Ors.** Manu/SC/0049/1986 the Supreme Court had also observed: -

"The ratio of any decision must be understood in the back ground of the facts of that case. It has been said long time ago that a case is only an Authority for what it actually decides, and not what logically follows from it".

13. Circumstantial flexibility, one additional or different facts may make world of difference between conclusions in two cases and disposing of a case by blindly placing reliance on a decision is not proper.

14. In view of above, I am of the conclusion that no direction can be passed for imposing any penalty on the Respondent. As the Respondent admittedly has borne out of records also



deposited the compensation alongwith interest on receipt of the order dated 31.10.2023 of this Authority.

15. In view of this application of claimant is not consideration under section 4-A of the EC Act, 1923 and accordingly the same is dismissed.
16. Given under my hand and seal of this Authority on this 24th day of January, 2025.

(S.C. Yadav)
Commissioner
Employee's Compensation Act, 1923



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