2026 INSC 177

REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.174 OF 2026

NEW INDIA ASSURANCE CO. LTD. …….APPELLANT(S)

VERSUS

REKHA CHAUDHARY AND OTHERS ……RESPONDENT(S)

J U D G M E N T

ARAVIND KUMAR J.

1. Heard. Leave Granted.

INTRODUCTION

2. The scope of present Appeal is confined to a limited aspect that is challenge to the Impugned Judgement and Order dated 21.05.2025 passed in F.A.O No. 147 of 2021 by the Delhi High Court to the extent it has fastened the liability of payment of penalty imposed under Section 4A(3)(b) of the Employees Compensation Act, 1923 (hereinafter referred to as "**EC Act**") upon the Appellant - New India Assurance Company Limited (for short

'Insurance Company') in addition to the amount of compensation and interest while allowing the appeal under Section 30 of the EC Act against order dated 19.11.2020 and 08.02.2021.

BRIEF FACTUAL MATRIX

3. The facts shorn of unnecessary details are set forth hereinbelow.

4. The Respondent no. 1-3 herein are the legal heirs of the deceased employee Shri Sandeep who was employed as a commercial driver by Respondent No. 4-Shri Manoj Kumar. On 13.02.2017 at about 1 pm when Shri Sandeep was driving the offending vehicle Maruti Swift Dzire Cab (LMV) bearing Registration No. HR 63C 6448 registered in the name of Respondent No. 4, he collapsed. The passengers accompanying him in the car brought him to casualty where he was pronounced dead. Pursuant to the said incident, the Respondent no. 1-3 preferred claim petition on 13.07.2017 seeking compensation under Employee's Compensation Act, 1923 before the Learned Commissioner, Labour Department, GNCT of Delhi.

5. The Learned Commissioner vide Order dated 19.11.2020 held that there existed an *'employer-employee'* relationship between Respondent no. 4 herein and deceased employee Sandeep and it was further held that since death had occurred during & in the course of employment with Respondent no. 4, the employer was liable to pay compensation for death to the claimants. Consequently, the Learned Commissioner after applying the

relevant factor as prescribed under Schedule IV of the EC Act arrived at the compensation amount at Rs. 7,36,680/- (Seven Lakhs Thirty-Six Thousand Six Hundred Eighty Rupees Only) and also granted an Interest @12% on compensation amount with effect from 13.02.2017 i.e., date of incident. Since there existed a valid insurance policy of the vehicle under Commercial Vehicle Package Policy from the Appellant herein and the incident had occurred during the currency of the policy (i.e., 26.06.2016 to 25.06.2017), the commissioner granted Respondent No. 4-employer to indemnify the compensation amount which he was held liable to pay by claiming it from the Appellant-Insurance company. Further, the commissioner had also issued show cause as to why penalty not exceeding 50% (fifty percent) of the compensation amount should not be imposed upon Respondent No. 4-employer under Section 4A(3)(b) of the EC Act for default in paying the compensation within one month from the date it fell due.

6. However, the Respondent no. 4 neither appeared nor filed any reply to the said show cause to explain any justification for the delay in depositing the compensation within specified period of one month. Hence, Commissioner by Order dated 08.02.2021 imposed penalty of 35% (thirty five percent) upon Respondent no. 4-employer i.e., Rs. 2,57,838/- (Two Lakhs Fifty-Seven Thousand Eight Hundred Thirty-Eight Rupees Only) for delaying the deposit payment of compensation within reasonable time without any justification. Being aggrieved by the order of learned Commissioner,

claimants preferred an appeal bearing F.A.O. No. 147 of 2021 under Section 30 of the EC Act before the Delhi High Court seeking enhancement of compensation to the tune of Rs. 25,00,000/- (Twenty-Five lakhs Rupees Only) along with @12% interest and also challenged the findings of the learned Commissioner to the extent he had imposed the primary liability to pay the compensation upon Respondent no. 4 and not on the appellant who was the insurer.

7. The High Court vide the Impugned Order did not interfere to enhance the compensation amount but set aside the order dated 19.11.2020 and 08.02.2021 to the extent it imposed the primary liability of paying the compensation, interest and penalty upon Respondent no. 4-employer and fastened it upon the appellant herein. It is pertinent to mention here that appellant has admitted its liability to pay the amount of compensation and interest. However, the Appellant is aggrieved by the limited aspect of imposition of liability for payment of Penalty under Section 4A(3)(b) of the EC Act. Hence, the present appeal.

SUBMISSIONS ON BEHALF OF THE PARTIES

8. Learned Counsel Shri Salil Paul appearing on behalf of the Appellant has submitted that Commissioner vide Order dated 08.02.2021 held that Show Cause Notice dated 19.11.2020 was sent to the employer-Respondent no. 4 to appear on 18.12.2020 and show cause as to why penalty upto the extent

of 50% of compensation amount be not imposed upon for not depositing the compensation within time when it fell due but Respondent no. 4 neither appeared nor filed any reply to the said show cause notice hence, the Commissioner vide Order dated 08.02.2021 had rightly held that Respondent no. 4 was not interested to defend itself and his opportunity to file reply was closed therefore he was held liable to pay the penalty.

9. He further submitted that employer had a duty to pay compensation as soon as the injury or death of the workman occurred under Section 4A(1) of the EC Act but he failed to pay the same within the stipulated period of one month as prescribed under Section 4A(3) of EC Act therefore he was called upon to show cause by the learned Commissioner and on his failure to show any justifiable cause, the Commissioner had rightly fastened the liability upon the employer as prescribed under Section 4A(3)(b) of the EC Act.

10. Lastly, he vehemently submitted that fastening of liability by the High Court for the payment of penalty upon the appellant under Section 4A(3)(b) of the EC Act is contrary to law laid down by this Court in ***Ved Prakash Garg v. Premi Devi***[1] wherein it has been held that the burden of payment of penalty as imposed by the Commissioner under Section 4A(3)(b) of EC Act has to be made good by the employer himself and same cannot be imposed upon the Insurance company since imposition of penalty under the said provision

[1] **1997 (8) SCC 1**

is the result of personal fault and negligence on the part of the employer. Hence, the Insurance company cannot be made liable to indemnify the same.

11. *Per Contra,* Learned Counsel Shri Manish Maini appearing on behalf of Respondent no. 1 to 3 and 5 have submitted that it would be wrong to interpret Section 4A(3)(b) of the EC Act to limit the liability of payment of penalty, specifically and exclusively upon the employer only.

12. He also submitted that appellant had failed to lead any evidence whatsoever, to prove any fundamental breach of the Insurance Policy to escape its liability. As per the indemnity clause, the primary liability to pay the victim of the accident, i.e., the employee or his Legal heirs falls upon the employer to be satisfied by the insurance company under its contractual liability. The Appellant-Insurance company is legally bound under contract as well as statutory liability to pay the compensation to the claimants.

13. He further submitted that Section 4A of the EC Act does not distinguish between the extent of liability between the employer and its authorized insurer. The plain and simple reading of the said provision indicates that entire liability to pay the compensation along with interest and penalty lies upon the employer without any distinction whatsoever. The liability to pay the employee is always joint and several. As such, there is an authorized insurer who collected the premium from the employer and issued the insurance policy for such unforeseeable event by which it automatically

stepped into the shoes of employer to protect the interest of the employee or his family by compensating them.

14. He lastly, submitted that appellant cannot distinguish Section 4A(3)(b) from the remaining provisions Section 4A(1), (2) & (3)(a) of the EC Act as the entire Section 4A is to be read with the same intent and purpose in its entirety. Therefore, the appellant's attempt to carve out any exception under Section 4A(3)(b) or terming it as a special provision of Employer personal liability only to exonerate themselves is mala fide.

ISSUE FOR CONSIDERATION

15. We have heard the learned counsels appearing on behalf of the parties at length and after perusing the material on record, we are of the considered view that the core issue which arises for our consideration is whether the High Court has committed an error to fasten the liability of paying the penalty component under Section 4A(3)(b) of the Employees' Compensation Act, 1923 upon the Appellant-Insurance Company in addition to the compensation and interest component?

ANALYSIS

16. At the outset, it is apt and appropriate for us to consider the scope and objective of the Employees' Compensation Act, 1923 before we delve into considering the submissions on merit so that we could give effect to the

purported legislative intent to the provision in question in its true perspective. The perusal of the statement of objects of the said legislation makes it crystal clear that said legislation is a social welfare statute brought in by the parliament to redress the grievances of the employees in case of accidents that may occur in or during the course of employment by payment of adequate compensation expeditiously so as to enable the employee or his family to defray the medical expenses of employees' in case of injury or sustain livelihood in case of death of an employee. Hence, this Court in catena of decisions has stressed upon the liberal and purposive interpretation of the said Act in favour of the employee being a social welfare legislation. Pertinently, this Court in ***Fulmati Dhramdev Yadav v. New India Assurance Co. Ltd.***[2] , while considering the beneficial purpose of the EC Act observed:

> ***"30.*** *It is well-established that the Act is a social welfare legislation and, therefore, it must be given a beneficial construction. Matters thereunder are to be adjudicated with due process of law and also with a keen awareness of the scope and intent of the act. This Court has, time and again, reiterated this principle. We may refer to* ***K. Sivaraman v. P. Sathishkumar*** *wherein, speaking for the Court, Dr. D.Y Chandrachud J., observed: —*
>
> > *"25. The 1923 Act is a social beneficial legislation and its provisions and amendments thereto must be interpreted in a manner so as to not deprive the employees of the benefit of the legislation. The object of enacting the Act was to ameliorate the hardship of economically poor employees who were exposed to risks in work, or occupational hazards by providing a cheaper and quicker machinery for compensating them with pecuniary benefits. The amendments to the 1923 Act have been enacted to further this salient purpose by either streamlining the compensation process or*

[2] **2023 SCC OnLine SC 1105**

enhancing the amount of compensation payable to the employee."

17. Hence, it is in light of above objective we will now examine the issue before us. Yet before delving to merits, it is apt and appropriate for us to note that the Appellant-Insurance Company has undeniably admitted its liability to pay the compensation and Interest component under Section 4A(3)(b) of the EC Act which is to the tune of Rs. 7,36,680/- with 12% p.a. simple interest from the date of death (13.02.2017) till payment and there is no dispute as such on the same. Therefore, the scope of the present appeal is thus, confined to the extent of determining the liability for paying the penalty component under Section 4A(3)(b) of the EC Act. As such, we have confined our analysis to this limited aspect and for the consideration of the same it is *sine qua non* for us to consider the scope of the said provision. The provision in question Section 4A(3)(b) has been extracted hereinbelow for easy reference:

"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) *XXXX*
(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) *XXXX*
(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.
……"

18. We cannot not lose sight of the fact that the present form of Section 4A(3)(b) is the result of substitution brought into the principal section by way of Workmen's Compensation (Amendment) Act, 1995 (Act No. 30 of 1995) which came into force 15th September 1995. Hence, it is imperative to trace the legislative history of the provision in question i.e., Section 4A to understand the true purport of the legislative intent behind incorporating this provision.

19. Section 4A did not form part of the Original Act of Employees Compensation Act, 1923. It was inserted by way of Workmen's Compensation (Amendment) Act, 1959 (Act no. 8 of 1959) as follows:

"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 workman, as the case may be, without prejudice to the right of the workman to make any further claim.*
(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 may direct that, in addition to the amount of the arrears, simple interest at the rate of six per cent per annum on the amount due together with, if in the opinion of the commissioner there is no justification for the delay, a further sum not exceeding fifty per cent of such amount, shall be recovered from the employer by way of penalty."*

20. The comparative chart of the Section 4A as was introduced in 1959 and substituted in 1995 is herein below for easy reference:

NEWLY INSERTED SECTION 4A AS PER WORKMEN'S COMPENSATION (AMENDMENT) ACT OF 1959	**SUBSTITUTED SECTION 4A AS PER WORKMEN'S COMPENSATION (AMENDMENT) ACT OF 1995**
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.*	***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 workman, as the case may be, without prejudice to the right of the workman to make any further claim.*	***(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 employee, as the case may be, without prejudice to the right of the employee to make any further claim.*
(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 may direct that, in addition to the amount of the arrears, simple interest at the rate of six per cent per annum on the amount due <u>together with</u>, if in the opinion of the	***(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***

commissioner there is no justification for the delay, a further sum not exceeding fifty per cent of such amount, shall be recovered from the employer by way of penalty.	***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.* **……."**

21. The comparison of Section 4A clearly reveals that the legislative intent of the newly inserted Section 4A by way of Amendment Act of 1959 was totally different when compared to its substituted version which was brought in by way of Amendment Act of 1995. We say so because when Section 4A was newly introduced, all the three components: Compensation, Interest and Penalty, formed common part of sub-section (3). Moreover, the said sub-section (3) explicitly used the expression "*together with*" before

the penalty component to indicate that the legislative intent was to ensure that entire liability of paying the compensation along with Interest and penalty were fastened upon the employer, if he committed default to pay the compensation within one month from the date it fell due. Hence, during 1959 to 1995, if the employers had a valid indemnity contract in their favour, the entire liability to satisfy the claim of compensation, interest and penalty as imposed upon them could have been fastened upon the insurer and it had to indemnify entirely and the compensation and indemnity-holder would be entitled to recover all three components from the indemnifier. Nevertheless, the same is not the case after substitution of Section 4A by way of 1995 amendment wherein the three components i.e., compensation, interest and penalty have been severed to form part of two different clauses within the same sub-section (3) i.e., Clause (a) which includes compensation and interest component and Clause (b) which solely includes the penalty component. The legislative intent behind severing the penalty component was to address larger predicament of easing the burden of indemnifiers who were adversely impacted by the obligation to pay the penalty which was not even the natural corollary of the obligation on their part under the indemnity contract to pay compensation and interest, rather such additional burden by way of penalty arose consequent to the default of obligation on the part of employer to pay compensation within the stipulated period of one month from the date it fell due. As such, the

indemnifier was imposed with higher monetary burden to pay the consolidated sum and was entrusted to discharge an obligation which was not consequent to the failure on its part. The employers were reluctant to pay the compensation and interest expeditiously within the stipulated time of one month from the date it fell due which resulted to levy of penalty upon them but since the penalty formed part of compensation and interest component by virtue of expression "*together with"* the indemnifier was compelled to pay the said component of penalty as well, as such, there remained no deterrence for the employers to deposit the compensation amount within a span of one month making the said obligation of depositing the compensation within time frame of one month redundant and the consequent penalty a mere dead letter.

22. Further the submission on the part of respondent that the Insurance policy covered all the components of financial liability under the ambit of policy which included compensation, interest and penalty cannot be accepted for two reasons, ***firstly***, the respondent has not produced the extant insurance policy that was governing the field at the time of incident to persuade us on the said submission and ***secondly***, which in our view, is further more significant is the presence of statutory obligation fastened upon the employer by virtue of Section 4(A)(3) which mandates the payment of compensation determined under section 4 within the time span of one month from the date it fell due. Thus, when the statute itself has obligated

the employer to make the payment within one month, such obligation cannot be countenanced as sub-servient to any contractual obligation or bypassing the statutory obligation, as the same would tantamount to disregard of the legislative intent envisaged under the said provision.

23. Further, the submissions on behalf of the respondent are contrary and in teeth of the law laid down by this Court in case of ***Ved Prakash Garg (supra)*** wherein the Division bench of this Court had dealt with similar issue and had held:

> ***"13.*** *The short question is whether the phrase "liability arising under the Compensation Act" as employed by the proviso to sub-section (1) of section 147 of the Motor Vehicles Act and as found in proviso to clause (i) of sub-section (1) of Section II of the insurance policy, would cover only the principal amount of compensation as computed by the Workmen's Commissioner under the Compensation Act and made payable by the insured employer or whether it could also include interest and penalty as imposed on the insured employer under contingencies contemplated by Section 4-A(3)(a) and (b) of the Compensation Act?"*
>
> ***14…****…….Therefore, the conclusion becomes inevitable that when an employee suffers from a motor accident injury while on duty on the motor vehicle belonging to the insured employer, the claim of compensation payable under the Compensation Act along with interest thereon, if any, as imposed by the Commissioner, sections 3 and 4-A(3)(a) of the Compensation Act will have to be made good by the Insurance company jointly with the insured employer. But so far as the amount of penalty imposed on the insured employer under contingencies contemplated by section 4-A(3)(b) is concerned as that is on account of personal fault of the insured not backed up by any justifiable cause, the insurance company cannot be made liable to reimburse that part of the penalty amount imposed on the employer. The latter because of his own fault and negligence will have to bear the entire burden of the said penalty amount with proportionate interest thereon if imposed by the Workmen's Commissioner.*
>
> **…..**
>
> ***19.*** *As a result of the aforesaid discussion it must be held that the question posed for our consideration must be answered partly in the affirmative and partly in the negative. In other words the insurance*

company will be liable to meet the claim for compensation along with interest as imposed on the insured employer by the Workmen's Commissioner under the Compensation Act on the conjoint operation of Section 3 and Section 4-A sub-section (3)(a) of the Compensation Act. So far as additional amount of compensation by way of penalty imposed on the insured employer by the Workmen's Commissioner under Section 4-A(3)(b) is concerned, however, the insurance company would not remain liable to reimburse the said claim and it would be the liability of the insured employer alone."

24. This court in ***Sheela Devi and Another v. Oriental Insurance Company Limited & Another***[3] wherein one of us was part of the bench (Justice Aravind Kumar) while dealing with a supplementary question of reduction of penalty amount had reiterated the view taken by this court in ***Ved Prakash Garg (supra)*** and observed that:

"***10.*** *It is settled law that statutory penalty which is imposed upon the employer under section 4-A(3)(b) of the Act is not to be indemnified by the Insured. In* ***Ved Prakash Garg (supra)****, this court has held that the Insurance company shall compensate the Insured-Employer for the principal amount of compensation as well as interest thereon, however, in case of any additional amount of compensation is awarded by the commissioner by way of penalty, the same would be the liability of the Insured-employer alone and not of the Insurance Company. The decision in* ***Ved Prakash Garg (Supra)*** *has been followed in* ***L.R. Ferro Alloys Ltd. v. Mahavir Mahto***[4] *holding that the Insurer is liable to indemnify the owner only for the compensation along with Interest thereon and not the penalty imposed on the employer for default in payment of amount within one month from the date of incident. In view of the above, the direction of the High Court, fixing the liability to pay statutory penalty on the Employer only, requires no interference from this court."*

---

[3] **2025 SCC OnLine SC 827**
[4] **(2002) 9 SCC 450**

CONCLUSION

25. Hence, in the light of aforesaid discussion, we are of the considered view that the present Appeal deserves to be allowed. Accordingly, it stands allowed. Consequently, the Impugned Judgement and Order dated 21.05.2025 passed in F.A.O No. 147 of 2021 is set aside, so far as it imposes the liability of paying the penalty under Section 4A(3)(b) of Employees' Compensation Act, 1923 on the Appellant-Insurance Company and the said liability is fastened upon the Employer i.e., Respondent no. 4 herein to pay the amount of penalty of Rs. 2,57,838/- (Two Lakhs Fifty-Seven Thousand Eight Hundred Thirty-Eight Rupees Only) as Ordered by the Commissioner by Order dated 08.02.2021 within a period of eight (8) weeks from today. Rest of the findings of the High Court remains undisturbed.

26. Pending applications, if any, shall stand disposed of.

.....J.
[ARAVIND KUMAR]

.....J.
[PRASANNA B. VARALE]

NEW DELHI;
FEBRUARY 23rd, 2026.