

**SUPREME COURT OF INDIA**

New India Assurance Co. Ltd.

Vs.

Shiv Singh

(S.S. Ahmed and D.P. Wadhwa JJ.)

21.01.2000

**ORDER**

1. Leave granted.

2. Respondent No. 2 has been served by publication, but has not put in appearance. Service on Respondent No. 1 has been dispensed with at the request of the appellant.

3. Respondent No. 1-Shiv Singh is the driver of truck No. HYL-765 owned by Respondent No. 2 which was insured with the appellant. Respondent No. 1 after having fallen down from the insured vehicle, approached the Workmen's Compensation Commissioner for damages on account of the injury sustained by him in his right leg and other injuries on the body. The Commissioner by his order dated 30.4.1996 allowed the claim and held the insurance company liable to pay the compensation. The Commissioner also held that the insurance company was liable to pay interest as also penalty over and above the principal amount of compensation. The appeal filed thereafter by the insurance company under Section 30 of the Workmen's Compensation Act in the High Court of Punjab and Haryana was dismissed on 26.8.1997. It is in these circumstances, the present appeal has been filed.

4. The only question raised before us by the learned Counsel for the appellant is that the Workmen's Compensation Commissioner could not have held the insurance company liable for payment of the amount of penalty under Section 4A(3) of the Workmen's Compensation Act. This question was considered by this Court in Ved Prakash Garg v. Premi Devi and Ors. and it was held:

24. 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 4A 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 4A(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.

5. In view of the above, the appeal is allowed and it is held that the appellant-insurance company is not liable to pay the amount of penalty as determined by the Workmen's Compensation

Commissioner.