

Ram Dulari Vs. H.P. State Electricity Board and anr.

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Court : Himachal Pradesh

Decided On : Sep-26-1986

Reported in : I(1987)ACC199

Judge : P.D. Desai, C.J.

Appellant : Ram Dulari

Respondent : H.P. State Electricity Board and anr.

Judgement :

P.D. Desai, C.J.

1. This appeal by the original claimant (mother of the deceased workman) is instituted under Section 30 of the Workmen's Compensation Act, 1923 (hereinafter to be referred as 'the Act') against that part of the award of the Commissioner, Workmen's Compensation (hereinafter referred to as the 'Commissioner'), Himachal Pradesh State Electricity Board (hereinafter called the 'HPSEB'), which disallowed the claim of the appellant for the award of interest on the compensation amount and which also failed to impose penalty for default in paying the compensation within the time limited by law.

2. The facts giving rise to the appeal may be briefly stated. The deceased was employed as Junior Engineer in the Andhra Construction Sub-Division No. 1, Chirgaon, on the monthly wages of Rs. 1554.40P. He met with a fatal accident on July 25, 1984, as a result of a fall while travelling on duty in a truck owned by the

first respondent (HPSEB). On a claim petition having been instituted by the appellant on January 16, 1985, the Commissioner issued a notice dated January 24, 1985, under Sub-section (I) of Section 10-A of the Act to the second respondent (Executive Engineer, Andhra Construction Sub-Division No. 1, Chirgaon), calling upon him to furnish the requisite particulars in the prescribed form and also to make 'the necessary deposit' (of compensation) within thirty days of the receipt of the notice. A copy of the application for compensation filed by the appellant was also enclosed with the notice. The second respondent furnished the necessary particulars and filed two written replies on February 11/12, 1985. Reading the two documents together, what emerges is that while not disputing that the deceased died when on duty and stating that the amount of compensation, if admissible and decided by the Commissioner, will be duly deposited, the second respondent disclaimed the liability to pay compensation on the grounds that: (i) an ex-gratia grant in the sum of Rs. 14,500/- having been made in favour of the appellant and the sister of the deceased having been employed as clerk in the office of the Deputy Chief Accounts Officer, HPSEB, no compensation under the Act was payable in view of the instructions issued in that regard by the HPSEB and (ii) the claimant(s), who were stated to be the family members of the deceased, were not 'dependants' within the meaning of Section 2 (d) of the Act. Ultimately, an exparte award in the sum of Rs. 88,548.00 came to be made on January 30, 1996. No adjustment/credit for the ex-gratia grant in the sum of Rs. 14,500/- was given in the award so made on the ground that it was 'not adjustable against the amount of compensation to be awarded under the Workmen's Compensation Act'. The compensation amount was ordered to be paid 'forthwith'.

3. The respondents applied for a review of the decision on February 13, 1986 and the application was fixed for hearing. The appellant filed a reply on March 17, 1986, contending that the review application was liable to be dismissed as not maintainable and further stating as follows :

That the defendant-applicant has defied the mandatory provisions of Section 10A of Workmen's Compensation Act 1923 and the Rules framed there under particularly Rule 6 of the Act aforesaid in as much as the defendant has not deposited even a single penny till date towards compensation in this learned

Court, through the same is not disputed, within the statutory period of 30 days of the date of occurrence of the accident, therefore, they are also liable to pay interest @ 6% P.A. on the awarded amount as envisaged Under Section 4A of the Workmen's Compensation Act 1923 from the date of compensation having become due till the date of payment for which the claimant non-applicant prays. Not only this even the defendant has knowingly disobeyed the orders of this learned Court in not depositing the amount of awarded compensation, therefore, they are also liable to pay penalty in addition to interest as envisaged under Section 4-A of the Act aforementioned, for which the claimant-non-applicant prays, and to this extent the award need be modified. (1976 SC 222 may be referred and seen).

A specific prayer was also made on similar lines in the reply in the following words:

Since the defendant has violated the mandatory provisions of Section 10A of the Workmen's Compensation Act, 1923 and Rule 6 of the Rules framed there under, statutory interest on the amount of award from the due date to the date of payment besides penalty as envisaged Under Section 4-A of the said Act and costs and compensatory costs as per Section 35-A of the Code of Civil Procedure, 1908 by reviewing and modifying the award may kindly be awarded to the claimant against the defendant-applicant....

4. The review application was granted and the case having been fixed for re-hearing pursuant to the grant 'of review, the respondents appear to have admitted that the deceased had died as a result of the injury caused to him by an accident arising out of and in the course of his employment and that the appellant was entitled to compensation in accordance with law. The only factor which the Commissioner was requested to take into consideration was that the HPSEB had made an ex-gratia grant in the sum of Rs. 14,500/- to the dependants of the deceased with a view to providing immediate relief soon after the fatal accident and that the said amount was required to be adjusted against the amount of compensation that may be held due and payable in accordance with law to the appellant. On behalf of the appellant, apart from the resistance offered to the claim of deduction as aforesaid, it was strenuously contended before the Commissioner

that since the amount of compensation was not paid within one month from the date it fell due, simple interest at the rate of 6% per annum on such amount was liable to be awarded in view of Section 4A(3) of the Act. The plea relating to the award of interest on the amount of compensation was resisted on behalf of the respondents, inter alia, on the ground that since no such demand was made by the appellant at any previous stage and the Commissioner had also not awarded interest in this ex-parte award and that since they had admitted the liability to pay compensation in the 'first reply', they should not be held liable to pay interest. The Commissioner rejected the plea relating to the deduction of the sum of Rs. 14,500/-advanced on behalf of the respondents holding that the ex-gratia grant could not be adjusted against the amount of compensation awardable under the relevant provisions of the Act. The plea advanced by the claimant-appellant with regard to the award of interest was also rejected in the following words:

Since the HPSEB had admitted the liability to pay the compensation whatever is to be awarded and they have also deposited the amount of compensation in this Court, therefore, the demand to pay the interest is not justifiable and hence rejected....

5. In the present appeal, the sole contention of the appellant is that the rejection by the Commissioner of the plea for the award of interest as well as the failure on his part to impose penalty for making a default in paying the compensation as soon as it fell due or latest within one month from the date it fell due is contrary to the statutory provisions and that the award is to that extent vitiated. The submission is resisted on behalf of the respondents on the ground that since the claim for compensation was not opposed and the liability was admitted and the non-payment of the whole of the amount of compensation due in accordance with law was under a genuine belief that the ex-gratia payment in the sum of Rs. 14,500/- would be regarded as provisional payment made under Sub-section (2) of Section 4-A of the Act, the plea for the award of interest was rightly rejected. It was also urged that the bonafides of the respondents were also manifest by the reason of the fact that the employment was provided to the unmarried sister of the deceased in a subordinate office in order to help the family tide over the financial difficulties arising on account of the death of the sole earning member of the family and that

the said conduct was also relevant for determining whether penalty, if any, should be imposed under Section 4-A(3) of the Act.

6. In order to determine the controversy, it is necessary to make reference to the relevant provisions of the Act. The Act, as its preamble suggests, was enacted to provide for the payment of compensation by certain classes of employer to their workmen on account of personal injury. Section 3 creates the liability against the employer for the payment of compensation in accordance with the provisions of the Act, if personal injury is caused to a workman by accident arising out of and in the course of his employment, subject to certain exceptions. Section 4 prescribes the formula by which the amount of compensation is to be determined in different cases. Section 4-A, which is the material for the present case, reads as follows:-

4-A. 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, be recovered from the employer by way of penalty.

Section 8, Sub-section (1), which is also relevant, reads as follows:

8. Distribution of compensation.-(1) No payment of compensation in respect of a workman whose injury has resulted in death, and no payment of a lump sum as compensation to a woman or a person under a legal disability, shall be made otherwise than by deposit with the Commissioner, and no such payment made directly by an employer shall be deemed to be a payment of compensation:

Provided that, in the case of deceased workman, an employer may make to any dependant advances on account of compensation not exceeding an aggregate of one hundred rupees and so much aggregate as does not exceed the compensation payable to that dependant shall be deducted by the Commissioner from such compensation and repaid to the employer.

Section 17 relates to contracting out and reads as follows:

17. Contracting out.-Any contract or agreement whether made before or after the commencement of this Act, whereby a workman relinquishes any right of compensation from the employer for personal injury arising out of or in the course of the employment, shall be null and void insofar as it purports to remove or reduce the liability of any person to pay compensation under this Act.

Section 19 provides for reference to the Commissioner if any question arises in any proceedings under the Act as to the liability of any person to pay compensation (including any question as to whether a person injured is or is not a workman) or as to the amount or duration of compensation (including any question as to the nature or extent of disablement) and such question, in default of agreement, is to be settled by the Commissioner.

7. In *Pratap Narain Singh Deo v. Shrinivas Sabata and Anr.* : (1976)ILLJ235SC , which was a case of personal injury caused to a workman by an accident which arose out of and in the course of his employment, the Commissioner had ordered the payment of penalty to the extent of fifty per cent together with interest at the rate of 6% per annum on the amount of compensation awarded by him. One of the questions raised for consideration on behalf of the employer-appellant in that case was whether the Commissioner had committed an error of law in imposing the penalty under Section 4-A (3) in view of the fact that the compensation had not fallen due until it was settled by the Commissioner under Section 19 by the award there impugned. The submission was considered and rejected in the following words:

Section 3 of the Act deals with the employer's liability for compensation. Sub-section (1) of that section provides that the employer shall be liable to pay

compensation if personal injury is caused to a workman by accident arising out of and in the course of his employment.' It was not the case of the employer that the right to compensation was taken away under Sub-section (5) of Section 3 because of the institution of a suit in a civil court for damages, in respect of the injury against the employer or any other person. The employer therefore became liable to pay the compensation as soon as the aforesaid personal injury was caused to the workman by the accident which admittedly arose out of and in the course of the employment. It is therefore futile to contend that the compensation did not fall due until after the Commissioner's order dated May 6, 1969 under Section 19. What the section provides is that if any question arises in any proceeding under the Act as to the liability of any person to pay compensation or as to the amount or duration of the compensation it shall, in default of agreement, be settled by the Commissioner. There is therefore nothing to justify the argument that the employer's liability to pay compensation under Section 3, in respect of the injury, was suspended until after the settlement contemplated by Section 19. The appellant was thus liable to pay compensation as soon as the aforesaid personal injury was caused to the appellant, and there is no justification for the argument to the contrary.

It was the duty of the appellant, under Section 4-A(1) of the Act, to pay the compensation at the rate provided by Section 4 as soon as the 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 for, as has been stated, he went to the extent of taking the false pleas that the respondent was a casual contractor and that the accident occurred solely because of his negligence. Then there is the further fact that he paid no heed to the 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 settling the claim for a sum which was so grossly inadequate that it was rejected by the Commissioner. In these facts and circumstances, we have no doubt that the Commissioner was fully justified in making an order for the payment of interest and the penalty.

8. The present case does not relate to a claim of compensation made by a workman who has sustained only a personal injury by an accident arising out of and in the course of his employment but relates to the claim of compensation made by the heir of a deceased workman who died as a result of such an accident. However, this difference in the fact-situation does not render the decision in Pratap Narain Singh Deo's case inapplicable as the liability of the employer to pay compensation in such cases also is governed by Section 3 of the Act.

9. Against the background aforesaid, it is manifest that in the present case the duty to pay the compensation at the rate provided in Section 4 arose under Sub-section (1) of Section 4-A of the Act as soon as the accident resulting in the injury to the deceased workman and in his consequential death occurred and that the respondents being in default in paying the compensation due under the Act within one month from the said day, the discretion conferred on the Commissioner under Sub-section (3) of Section 4-A to award interest on the compensation amount in accordance with law was required to be exercised reasonably and in a judicial manner after taking into consideration all the relevant factors and that if, in her considered opinion, there- was no justification for the delay, the penalty was also required to be ordered to be recovered. The Commissioner has held, as earlier pointed out, that since the respondents had admitted the liability to pay the compensation 'whatever is to be awarded' and that they had also deposited the amount of compensation in the Court, the claim with regard to the payment of interest was not justified. The question of imposition of penalty does not appear to have been considered at all presumably on the same ground. The question for determination is whether the award suffers from any error of law based, inter-alia, upon the misconstruction of the relevant statutory provision.

10. Now, in the first place, it is factually incorrect to hold that the respondents had admitted the liability to pay the compensation in accordance with law. In the initial reply dated February 11, 1985 filed before the Commissioner, the following contention was taken on their behalf in paragraph 5:

5. I disclaim liability to pay compensation on account of the deceased's death on the following grounds:

(i) As per latest circular/instructions issued vide Secretary HPSEB, Shimla, office Memorandum endst. No. (SECTT) 6-155/84-77661-820 dated 10-7-84, the dependents of deceased regular employees should be given the option either to claim compensation under the Workmen's Compensation Act or to opt for new benefits now granted by the Board in lieu of compensation, which has further been modified vide even No. 110197-356 dated 4-9-84 and in the above modification, it has been made clear that those who do not opt for the special pensionary benefit scheme, would be entitled for employment to the legal heir's of the deceased employee under Employment Assistance Scheme plus ex-gratia.

(ii) In support of above a copy of Accounts Officer (Funds) HPSEB, Shimla, office letter No. HPSEB/F. & A. Pen/Late Shri Rajinder Kalia J.E./84-4357-62 dated 24-11-84 vide which authority for the payment of Ex-gratia grant of Rs. 14,500/- in favour of Smt. Ram Dulari Kalia mother of late Shri. Rajinder Kalia, J.E. was issued to Executive Engineer, City Electrical Division, HPSEB, Shimla, is sent herewith for favour of information. It has been clearly indicated in the above letter that this authority is valid only if it is certified that no payment of compensation under Workmen's Compensation Act has been made or likely is to be made in future.

(iii) As regards providing of employment to the legal heir of the deceased employee under Employment Assistance Scheme, it is to intimate that Miss Rajnesh Kalia, sister of the deceased has been appointed as Clerk and posted in the office of the Dr. Chief Accounts Officer, HPSEB, Shimla vide Secretary HPSEB, Shimla,, office Memorandum endst. No. HPSEB (SECTT) 6-2/84-152920-24 dated 18 12-84.

11. It would thus appear that at the initial stage of the proceedings, the liability to pay compensation was sought to be disclaimed on the basis of the departmental instructions referred to in the extracted portion pursuant to which ex-gratia payment in the sum of Rs. 14,500/- appears to have been made to the appellant sometime in the month of November, 1984 and employment was also offered to the sister of the deceased workman sometime in the month of December 1984. Besides, the fact of the deceased having left any dependants was also disputed. It

is only at the subsequent stage that Mr. K.K. Tatra, Assistant Engineer, Andhra Construction Sub-Division No. 1, HPSEB, Chirgaon, who was examined as a witness on behalf of the respondents on April 17, 1985, made a statement before the Commissioner that whatever compensation was due and payable in accordance with law be ordered to be paid to the person entitled thereto subject to the deduction of the sum of Rs. 14,500/- which was earlier paid as ex-gratia relief.

12. In the second place, the finding that the amount of compensation was deposited in the Court would seem to indicate that the Commissioner was labouring under the impression that the deposit was made soon after the accident or latest upon the institution of the claim petition. Such a belief, if any, is also erroneous. Although the second respondent was called upon by the Commissioner to deposit the compensation amount as far back as January 24, 1985, the amount was not deposited even after the ex-parte award was passed nor along with the application for review. The amount was deposited on April 7, 1986, that is to say, only after the grant of the review application and just ten days before the fresh award upon review was made on April 17, 1986. This would indicate that the compensation was deposited long after it fell due.

13. In the third place, mere admission, if any, of the claim, without the payment of the compensation as and when it fell due, or without making the provisional payment based on the extent of the liability accepted, would not justify the refusal of the award of interest. Section 4-A, Sub-section (3) vests the Commissioner with a judicial discretion to award such interest in the event of the employer making a default in paying the compensation due under the Act within a period of one month from the date it fell due and such discretion, like any other judicial discretion, has to be exercised with vigilance and circumspection, according to justice, common sense, and sound judgment, and having known through law what is just. The discretion could not be regarded as having been reasonably and judicially exercised in a just and equitable manner, if the award of interest is denied solely on the ground that the employer had admitted the claim, when, in spite of such admission, he makes a default in making the provisional payment or payment of the compensation due in accordance with law within the statutory time limit. If such a view is held justified, the very purpose behind the enactment of Section 4-A will

be frustrated. Be it appreciated also that where enabling or discretionary power is conferred, the words which are permissive in character should be construed as involving a duty to exercise the power, if some legal right or entitlement is conferred, or enjoyed, and for the purpose of effectuating such right or entitlement, the exercise of such power is essential.

14. In the last place, the respondents could not be regarded as having acted bonafide in making a default in making the provisional payment or the payment of the compensation under the Act as soon as it fell due or within one month thereafter on the ground that ex-gratia payment in the sum of Rs. 14,500/- had been made and employment was offered to the sister of the deceased workman. The respondents are not private employers but an agency or instrumentality of the State. They are a State enterprise which in a truly welfare State is charged with the social consciousness and responsibility towards the citizens and, more particularly, towards its employees. A public sector enterprise is expected to be a model employer and on the facts and in the circumstances of the case the respondents could not possibly have declined to accept the liability for compensation and they cannot justifiably take shelter behind the plea of entertaining a genuine belief that the factum of the ex-gratia payment together with the employment of the sister of the deceased (which was a benefit computable in terms of money) would be regarded as provisional payment made under Subsection (2) of Section 4-A of the Act or as an extenuating circumstance while considering the default in making the payment due in accordance with law. A bare reading of Subsection (2) shows that the provisional payment is to be made in cases where the employer does not accept the liability to the extent claimed but partially accepts the same. In the present case, as earlier pointed out, the liability was not accepted in the early stages of the present proceedings precisely on the ground that such payment and employment were in lieu of the statutory compensation payable under the Act. Against the background of the aforesaid stand, it does not lie in the mouth of the respondents to urge that the ex-gratia payment and employment were in the nature of provisional payment to the extent of the admitted liability for compensation. Besides, although the liability came to be admitted at the subsequent stage, the compensation due in accordance with law was not paid or deposited immediately and it was deposited only ten days before

Commissioner's impugned decision was rendered. Under the circumstances aforementioned, can the respondents be heard to plead that the default was on account of any bonafide belief or that there are any extenuating circumstances?

15. There are other factors and considerations as well which militate against such a plea. First, the learned Counsel for the respondents has fairly stated to the Court that the benefit of ex-gratia payment is available to the heirs of an employee who dies while in service irrespective of whether the death was the result of a personal injury caused to a workman arising out of and in the course of his employment. It would thus appear that the said payment has no nexus whatsoever with the compensation which was payable under the provisions of the Act and that it would have been made to the heir(s) of the deceased workman even if he had not died as a result of the injury sustained by him by accident arising out of and in the course of his employment. The circumstances that such payment was made cannot, therefore, be pressed into service and it cannot be regarded as payment of compensation under the Act or as provisional payment under Sub-section (2) of Section 4-A. Secondly, Section 8 prohibits the payment of compensation in respect of a workman, whose injury has resulted in death, to be made otherwise than by deposit with the Commissioner and no such payment made directly by an employer is deemed to be a payment of compensation. The respondents must be attributed knowledge of this statutory provision and they cannot be, therefore, heard to say that the ex-gratia payment of Rs. 14,500/- is the payment of compensation due under the Act or the part payment of such compensation which must enter into consideration while determining the liability, if any, arising under Sub-section (3) of Section 4-A. Thirdly, in para 5 of the reply submitted by the respondents before the Commissioner, there is a reference of the instructions of the respondent-Board that payment of the ex-gratia payment and the employment to be offered to the legal heir(s) of the deceased workman are in lieu of the statutory compensation under the Act and that only those will be entitled to receive such benefit who have not made or are not likely to make such a claim under the Act. The resistance to the claim for compensation in the initial stages on the strength of those instructions was wholly untenable and misconceived. The Act is a legislative enactment conformable to the Directive Principles of State policy enshrined in Articles 39(a), 41, 42, 43 and 46 of the Constitution. Its provisions,

which are based on public policy, could not have been waived by the heir(s) of the deceased and any agreement between her/them and the respondents, which has the effect of defeating those provisions, must be regarded as void being opposed to public policy. Apart from this general principle of law, which is well established, there is in Section 17 of the Act a clear prohibition against contracting out and, accordingly, any contract or agreement whereby a workman relinquishes any right of compensation from the employer for personal injury arising out of or in the course of the employment is to be treated as null and void insofar as it purports to remove or reduce the liability of any person to pay compensation under the Act. The respondents, being enlightened and resourceful employers, could not have been unaware of this settled position of law and they are wholly unjustified in pleading that they were under the genuine belief that the payment of the ex-gratia amount of Fs. 14,500/- and the employment of a sister of the deceased would protect them from any claim for compensation under the Act or relieve them from the liability arising under Sub-section (3) of Section 4-A. Indeed, the Court would like to observe that it is hightime that the respondents withdrew the instructions dated July 10, 1984 and September 4, 1984 insofar as they run counter to the injunction contained in Section 17 of the Act.

16. For the foregoing reasons, in my opinion, the Tribunal committed a serious error of law in rejecting the claim for interest advanced by the appellant.

17. The next question which falls for consideration is whether, on the facts and in the circumstances of the case, the Commissioner failed to exercise altogether the jurisdiction vested in her to consider the award of penalty as provided in Sub-section (3) of Section 4-A and or whether her failure to exercise the discretion in that regard is founded on an error of law based, inter alia, upon the misconstruction of the relevant statutory provision. For the self-same reasons and considerations, which have been set out above in the context of the failure on her part to award the interest, no conclusion other than that there was no justification for the delay in the payment of statutory compensation is possible in the present case. No person duly instructed in law could ever come to the conclusion that this was a case where there was the slightest justification for delaying the payment of compensation due under the Act. Under the circumstances, the Commissioner

was not only under a statutory duty to consider the award of penalty but also to award penalty in such sum as could be held just and proper in the circumstances of the case and her failure to do so has vitiated the award by an error of law.

18. The question then is as to what penalty should be ordered to be recovered from the respondents in the factual matrix of this case. The same factors and considerations are again relevant while considering this question. The respondents are not private employers but public sector employers. They are an agency or instrumentality of the State. They are expected to be model employers while dealing with their workman, it is their duty to implement the beneficent provisions of the Act in their true letter and spirit and to make payment of the compensation as soon as it falls due. In view of the fact that the basic requirement, namely, the death having occurred as a result of the injury sustained in an accident arising out of and in the course of employment, was never in dispute in the present case, it was the duty and obligation of the respondents to pay the compensation due under the Act as soon as it fell due. Both, the statutory provisions and the case law on the subject, are clear and specific in regard to the precise point of time when the payment is required to be made. In the reply to the application for review, the appellant had drawn their specific attention thereto. Still however, as found earlier, the liability was not admitted initially and no payment of compensation was made until ten days before the fresh award was announced in the review proceedings, although they were called upon by the Commissioner to deposit the compensation way back in January 1995 when the notice under Section 10-A was issued. All sorts of objections, one of which was based on a contract which was apparently void, were set up and pleaded in support of the denial of liability as well as in justification for the delay. I do not think under such circumstances a public sector employer can be relieved of the rigours of the provision relating to the recovery of penalty upto the maximum extent. I, therefore, regard this to be a fit and proper case where the respondents should be directed to pay penalty to the extent of 50% of the amount of statutory compensation.

19. For the foregoing reasons, the appeal succeeds and it is allowed. The respondents are directed to pay to the appellant simple interest at the rate of six per cent per annum on the sum of Rs. 88,548/-, which has been determined as the

statutory compensation payable to her in accordance with law, from the date of the accident till the date of deposit. In addition, a sum of Rs. 44,274/- is directed to be recovered from the respondents by way of penalty and paid to the appellant. The respondents will deposit in the Registry of this Court within a period of two weeks from the date of the delivery of a certified copy of this judgment the amount becoming due and payable as a result of this decision. Upon the deposit being made accordingly, the case will be listed before the Registrar for settling the usual draft order of investment. The appellant is also entitled to the costs of this appeal which are quantified at Rs. 350/-. The costs awarded accordingly will also be deposited in the Registry of this Court alongwith the amount of interest and penalty.

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