

HC 01, MBA –III Semester,

Unit: 2

Topic: Compensation to be paid when due and Penalty for Default

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COMPENSATION TO BE PAID WHEN DUE AND PENALTY FOR DEFAULT. [Sec 4A].

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 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.

Explanation .-For the purposes of this sub-section, "scheduled bank" means a bank for the time being included in the Second Schedule to the Reserve Bank of India Act, 1934 (2 of 1934).] [(3-A) The interest and the penalty payable under sub-section (3) shall be paid to the workman or his dependant, as the case may be.

Employer must pay the compensation to the workman within one month of time. If employer fails to pay the compensation within one month of time, the commissioner can direct the employer to

pay Compensation amount by adding 12% of simple interest per annum or specified by the Central Government.

If there is no proper reason or there is no justification by the employer for delay in payment of compensation, in that case the commissioner can direct the employer to pay extra sum of not exceeding 50% of compensation amount as the penalty. [Sec 4A (b)].

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Section - 5. Method of calculating wages. -

In this Act and for the purposes thereof the expression "monthly wages" means the amount of wages deemed to be payable for a month's service (whether the wages are payable by the month or by whatever other period or at piece rates) and calculated] as follows, namely:-

(a) where the workman has, during a continuous period of not less than twelve months immediately preceding the accident, been in the service of the employer who is liable to pay compensation, the monthly wages of the workman shall be one-twelfth of the total wages which have fallen due for payment to him by the employer in the last twelve months of that period;

(b) where the whole of the continuous period of service immediately preceding the accident during which the workman was in the service of the employer who is liable to pay the compensation was less than one month, the monthly wages of the workman shall be $\frac{1}{12}$ of the average monthly amount which, during the twelve months immediately preceding the accident, was being earned by a workman employed on the same work by the same employer, or, if there was no workman so employed, by a workman employed on similar work in the same locality;

(c) in other cases including cases in which it is not possible for want of necessary information to calculate the monthly wages under clause (b), the monthly wages shall be thirty times the total wages earned in respect of the last continuous period of service immediately preceding the accident from the employer who is liable to pay compensation, divided by the number of days comprising such period.

Explanation .-A period of service shall, for the purposes of [this] section, be deemed to be continuous which has not been interrupted by a period of absence from work exceeding fourteen days.

Workmen's Compensation Act: Interest On Compensation Amount To Be Awarded From The Date Of Accident - Supreme Court observed.