

From

The Labour Commissioner,
Haryana, Chandigarh.

To

1. All the Deputy Labour Commissioners exercising the powers of Commissioner under the Employees' Compensation Act, 1923 in the State of Haryana.
2. All the Assistant Labour Commissioners exercising the powers of Commissioner under the Employees' Compensation Act, 1923 in the State of Haryana.

No. 26052-90

Dated: 07/10/2026

Subject: Strict compliance with Section 4A(3)(b) of the Employees' Compensation Act, 1923 regarding consideration and imposition of penalty – issuance of notice to employer/respondent – directions thereof.

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Reference is invited to the provisions of Section 4A of the Employees' Compensation Act, 1923 and the judicial pronouncements of the Hon'ble High Court concerning consideration of penalty in cases where compensation is found payable under the Act.

2. It has been observed that, while deciding claims under the Employees' Compensation Act, 1923, in certain cases the Commissioners are not considering the question of penalty under Section 4A(3)(b) of the Act, particularly where the claimant has not specifically claimed or prayed for penalty in the claim petition.

3. Section 4A mandates payment of compensation as soon as it falls due. Where an employer defaults in payment of compensation within the period prescribed under the Act, the consequences stipulated under Section 4A(3) are attracted. Apart from interest as provided under Section 4A(3)(a), Section 4A(3)(b) empowers the Commissioner, where there is no justification for the delay, to direct the employer to pay, in addition to the arrears and interest, a further sum not exceeding fifty per cent of such amount by way of penalty.

4. It is reiterated that the question of penalty under Section 4A(3)(b) shall not be ignored merely on the ground that the claimant has not specifically claimed or prayed for penalty in the claim petition or evidence. Whenever the facts and circumstances of a case attract the provisions of Section 4A, the Commissioner shall

employer/respondent adequate opportunity to show cause and lead evidence, if any, as to whether there was justification for the delay in payment of compensation.

6. Where such an issue has not been framed during the proceedings and the Commissioner, upon adjudication, holds that compensation was payable and that the case calls for consideration of penalty under Section 4A(3)(b), the proceedings shall not be closed without considering the statutory requirement relating to penalty. The employer/respondent shall be served with an appropriate show-cause notice and afforded reasonable opportunity of being heard as to why penalty under Section 4A(3)(b) should not be imposed. Thereafter, the Commissioner shall pass an appropriate reasoned order in accordance with law.

7. It is further clarified that penalty shall not be imposed mechanically or automatically merely because compensation has been awarded. The Commissioner shall consider whether there was justification for the delay/default, after giving the employer/respondent the opportunity required under the Act, and shall record appropriate reasons while deciding the question of penalty and its quantum, wherever applicable.

8. All Commissioners exercising powers under the Employees' Compensation Act, 1923 are, therefore, directed to ensure strict compliance with the provisions of Section 4A(3)(b) and the directions/judgments of the Hon'ble High Court in every applicable case. Failure of a claimant to specifically pray for penalty shall not, by itself, be treated as a ground for omitting consideration of the statutory provisions relating to penalty.

9. These instructions shall be brought to the notice of all concerned for strict and meticulous compliance in all pending as well as future cases, to the extent applicable in accordance with law.


Addl. Labour Commissioner,
for Labour Commissioner, Haryana.