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Editorial

BE COMBAT READY!

The United Forum of Bank Unions, including the All India Bank Officers' Confederation (AIBOC), is Combat Ready to initiate action to compel the Indian Banks' Association (IBA) to implement the agreed 5-Day Week, particularly on an immediate basis. At the time of writing this editorial, bankers are gearing up for a nationwide full-day strike scheduled for January 27, 2026. If the strike proceeds, bankers should be prepared for further industrial actions, not to demand new rights, but to ensure the implementation of rights they have already earned. It is paradoxical that we now find ourselves fighting not for advancements in service conditions, but merely to secure the fulfillment of what has already been acknowledged by management after years of ongoing struggle.

This situation raises a significant question about how management or the Department of Financial Services (DFS) can backtrack on agreed-upon points despite entering into a written settlement that was duly approved by the boards of the respective banks and received statutory clearance from the appropriate banking administration levels. This clearly indicates that those in power are disregarding the established norms of industrial relations. What gives them the audacity to do this? The influence of crony capitalists on government operations, combined with a complete shift in the government's economic priorities, suggests that the agreements with trade unions no longer matter as much as the commitment to privatize national assets, including public sector banks.

We need to understand the current developments as a logical progression stemming from the changes in economic priorities since 1991, when the reform process began, and which has now accelerated the dismantling of a sovereign economic structure that once prioritized public sector financial institutions and banks.

Beyond our demand for a 5-Day Week or adequate recruitment, the movement must quickly establish both short-term and long-term goals. We also need to conceptualize the core principles and foundations on which the movement should advance in this transformed environment, without needing to summon rank-and-file members. Important issues, such as the non-interference in the micro-management of banks, should be asserted. The coalition of bank trade unions should be further strengthened, ensuring that this spirit resonates down to the branch level. It is vital to educate and re-educate our membership about the reasons for our struggle, or else our trade union actions may ultimately lead to another holiday without substantial impact.

Counter pressures can be created by emphasizing the adoption of proper technology standards, reorienting lending policies to favor the priority sector, and exploring new business avenues by focusing on core banking functions while gradually stepping back from third-party products.

A JUG FILLS DROP BY DROP

It is also pertinent to note that banks are treating officers in Scale-IV and above as strike breakers, despite their membership in the trade union, which is illogical and undermines trade union democracy. Efforts have been made to create an artificial division during the implementation of the Performance Linked Incentive (PLI) scheme, now extended to demoralize the officers' movement. Resistance must be built against such anti-labor practices.

This critical time calls for total consolidation within the Confederation and collaboration with our allies to develop a real-time resistance. We cannot afford to treat our actions as routine or repetitive. We must find a new language, a novel approach to resistance, and clarify our understanding of why these issues are occurring, as well as how we should evolve in the future.

History rarely marks its turning points with clarity, and that moment may have arrived. The entire geopolitical landscape is changing rapidly, with consequential effects on economic orders both nationally and internationally. History has entrusted the Confederation with the responsibility to lead this struggle with vigilance, alongside all our fellow fighters, in a world increasingly dominated by a set of rulers who, while appearing idiosyncratic, are actually executing a plan to uphold the supremacy of capital over labor.

#SavePSBs
#HaltFurtherMergers
#BankingInThePublicSector
#NoTo100PercentFDIInInsurance
#YesToAdequateRecruitment
#MarchOnComrades,
#NationAgainstPrivatisation
#BankBachaoDeshBachao

CIRCULARS

Circular No. 2026/06

Date: 18.01.2026

We reproduce the text of UFBU Circular UFBU/2026/06 dated 18.01.2026 for your information and necessary action.

Unified Voice of Bank Employees: Historic Digital Mobilisation: UFBU's X (Twitter) Campaign a Grand Success Gear Up for All India Bank Strike on 27th January, 2026

Dear Comrades,

We congratulate all our constituent unions, units, and members across the country for their spirited and overwhelming response to today's nationwide X/Twitter campaign demanding implementation of 5-Day week in Banking Industry and declaration of the remaining Saturdays as holidays, as already agreed between IBA and UFBU and committed in the Wage Revision Settlement of March 2024.

The digital campaign under the hashtag #Implement5DayBanking has emerged as a remarkable success, clearly reflecting the collective resolve and unity of the banking fraternity.

As per the consolidated social media analytics of today's campaign:

- **Total Posts / Results: over 4.11 lakh**
- **Total Engagements: nearly 5.16 lakh**
- **Sentiment: overwhelmingly positive**
- **Potential Reach: an impressive 2.09 crore (20.9 million) users**

These figures powerfully demonstrate that the demand for 5-Day Week in Banking Industry is not only legitimate but also enjoys wide support among bank employees and the public at large. The coordinated participation, massive reposting, and sustained momentum throughout the day underline our collective determination to secure what

IN THE SKY THERE IS NO DISTINCTION OF EAST AND WEST

has already been rightfully agreed.

UFBU once again places on record its deep appreciation for all members who actively contributed by posting, reposting, and amplifying the campaign, thereby strengthening our agitational programme and sending a clear message to the authorities concerned.

The struggle now enters a decisive phase.

March on to Strike on 27th January: UFBU calls upon all bank employees and officers to gear up for the All India Bank Strike on 27th January,

2026. Let us convert this digital momentum into collective industrial action and ensure total participation to compel implementation of the agreed 5-Day Banking.

March ahead in unity. Make the strike a grand success.

With revolutionary greetings,

Comradely Yours,

Sd/-
Rupam Roy
General Secretary

The enclosed letter to Circular No. 2026/05 dated 16.01.2026 could not be included due to paucity of space, the contents being 21 pages. (Editorial Board)

Circular No. 2026/05

Date: 16.01.2026

FORWARDING OF UFBU LETTER NO. UFBU/2026/LTR-1 DATED 16.01.2026 – COMPLAINT ON ANTICIPATED UNFAIR LABOUR PRACTICE

We are forwarding herewith UFBU Letter No. UFBU/2026/LTR-1 dated 16.01.2026, along with enclosures, addressed to the Chief Labour Commissioner (Central), Ministry of Labour, with copies marked to IBA and DFS, for your information and necessary action.

The letter has been issued in the backdrop of the Strike Notice (Form-L) dated 08.01.2026 for the proposed strike action on 27.01.2026, and the strong apprehension that certain banks may resort to unfair labour practices by issuing intimidating communications, particularly to officers in SMGS IV and SMGS-V, to deter them from participating in lawful trade union activities.

It may be recalled that, during the conciliation meeting held on 21.03.2025 before the Chief Labour Commissioner (Central) at Delhi, this issue was specifically raised, and it was advised (as minuted) that a formal complaint be lodged under Section 25(T) of the Industrial Disputes Act, 1947 for appropriate examination and action.

In line with the said advice, UFBU has now taken a firm and proactive stand by submitting the present complaint, seeking immediate directions to IBA/banks to desist from such unlawful acts, withdraw any such letters already issued, and ensuring that no officer-member is discriminated against in collective organisational programmes.

All affiliates and state units are requested to take note of the above and remain vigilant. Wherever any such restrictive/threatening communication is issued by bank management, the same may be promptly reported through appropriate channels so that necessary organisational and legal action can be initiated in coordination with UFBU.

With revolutionary greetings,

Comradely yours,

Sd/-
Rupam Roy
General Secretary

THERE HAS TO BE EVIL SO THAT GOOD CAN PROVE ITS PURITY ABOVE IT

The enclosed letter to Circular No. 2026/08 dated 25.01.2026 i.e. CLC Minutes dated 22/01/2026 & UFBU Letter No. UFBU/2026/LTR-1 Dated 16/01/2026-could not be included due to paucity of space, the contents being 8 pages. (Editorial Board)

Circular No. 2026/08

Date: 25/01/2026

All members in Scale-IV & Scale-V

Dear Comrades,

**Threats/Intimidation to SCALE-IV/V on UFBU Strike Participation- UFBU
Complaint to CLC
Advisory from the office of the Chief Labour Commissioner (Central)**

We write this letter in the context of UFBU's duly notified organisational programme/strike on 27th January, 2026 demanding implementation of 5 Day Work Week for our members in the Banking Industry and the disturbing pattern of coercive communications being issued to officers in Scale-IV & Scale-V to deter participation.

UFBU has already taken up this issue with the Chief Labour Commissioner (Central) vide its letter no UFBU/2026/LTR-1 dated 16.01.2026, and the conciliation proceedings held on 22.01.2026 have recorded a clear position against such intimidation-based directives.

Our Confederation has been informed that the Bank Managements have circulated a communication addressed to Scale-IV/V officers containing clauses that:

- (i) seek to treat participation/absence as misconduct/dereliction/break in service, and
- (ii) threaten statutory/disciplinary consequences, including by invoking Section 36AD of the Banking Regulation Act, 1949.

UFBU, in its complaint dated 16.01.2026, recorded that certain banks were preparing "threatening letters/communications" to Scale IV and above officers, branding them as "Senior Management

Cadre" and invoking Section 36 AD with a mala fide intent to intimidate them from participating in lawful strike action. UFBU further asserted that attempts to intimidate Scale-IV/V officers from legitimate trade union activity/ strike at the constitutional guarantee of the right to form associations/unions, and that such acts amount to unfair labour practice under the Industrial Disputes Act.

The minutes of the conciliation meeting dated 22.01.2026 record that UFBU pointed out banks issuing/proposing intimidation letters to Scale-IV/V to dissuade participation in lawful organisational programmes and the notified strike action. We are happy to share that the Conciliation Officer from the office of the Chief Labour Commissioner (Central) has taken a serious view of such threats/intimidations/coercions and therefore made the following remarks:

"At this stage, the bank managements are advised by the conciliation officer that every employee/officer has the lawful right to form associations and participate in legitimate trade union activities as enshrined in the Constitution of India, including duly notified organisational action. Any intimidatory or coercive communication, particularly those selectively addressed to SMGS-IV/ SMGS-V or issued as blanket deterrents and may amount to impermissible interference with trade union rights and may attract action u/s 25(U) of the ID Act, 1947. Accordingly, all such letters/instructions already

OVERCOME ANGER BY LOVE, EVIL BY GOOD

issued must be kept in abeyance and withdrawn/rescinded forthwith in order to avoid any legal complications.” (CLC Minutes dated 22.01.2026, attached)

Key takeaways from CLC Minutes

⇒ The minutes record that every employee/officer has a lawful right to form associations and participate in legitimate trade union activity, “as enshrined in the Constitution of India.”

⇒ The minutes also record that “intimidatory or coercive communication”, especially those selectively addressed to Scale-IV/ Scale-V, may amount to impermissible interference with trade union rights and “may attract action u/s 25(U) of the ID Act, 1947.”

⇒ Further, the minutes record the direction/advice that such letters/instructions already issued “must be kept in abeyance and withdrawn/rescinded forthwith.”

⇒ UFBU’s complaint and submissions highlight the misuse of Section 36AD as a threat tool against lawful organisational action, and the need for banks to desist from such communications.

When a notice to senior management officers is drafted in a manner that equates participation/absence with misconduct, threatens criminal/statutory consequences, and issues “attendance-responsibility” directives, the real-world effect is chilling. AIBOC reiterates that we are firm on principle and careful on facts, and our position is grounded in the UFBU complaint and what is recorded in the conciliation minutes.

The Confederation has consistently advocated for senior scales. In the last wage negotiation, apart from the additional CAIB increment, we negotiated three additional stagnation increments from Scale IV up to Scale VII, directly in your favour.

What’s at stake now?

1) PLI: “Non-performer” scrutiny and denial of incentives: AIBOC has objected to the practice of branding officers as non-performers and denying incentives to 20% of officers, a cut that may exceed 20% depending on the Bank’s performance. This approach is unfair, demoralising, and opens the door to arbitrary exclusions.

2) DFS letter [26 Sep 2024]: a second track to prematurely retire officers:

The DFS, vide letter no. eF. No. 4/1/22/2015-IR dated 26 Sep 2024 to heads of PSBs, directs periodic performance-based reviews and, where warranted, premature retirement “in public interest” under existing OSR/Service Rules.

For Nationalised Banks’ officers, the cited trigger is 55 years of age and/or 30 years of service (as per the Regulation 19 framework quoted). Operationally, this is being pushed into a routine pipeline via a DoPT quarterly review cycle and a mandatory monthly report (by the 8th) capturing how many were due, reviewed, recommended, and actually retired prematurely.

Now the core question is this: if bona fide business decisions already expose officers to departmental proceedings, how is it “public interest” to activate an additional mechanism that can end careers merely on crossing an age/service threshold, without a fair, objective separation between mala fide misconduct and bona fide professional judgment?

A question should have been raised: why we were offered such huge incentives when we have to fight for single penny every other day?

We see this as a pathway to block careers and institutionalise lateral hiring through such incentives. We see this trajectory as an easy route to deny extensions and progression, especially for those kept outside the incentive bracket and, over a period of

THREE THINGS CANNOT BE LONG HIDDEN: THE SUN, THE MOON AND THE TRUTH

time, exclude all. Coupled with the proposals of lateral induction of one MD in SBI from the private sector who may be the future Chairman and MD, and EDs from the private sector for all other PSBs, this is closing the ladder for our own officers and banks being run through lateral hiring rather than internal merit-based advancement, thereby privatising the top including the Boards of the Banks.

We are opposed to such moves where the career of our Senior Management officials is at stake and also for all for the future generation. We want our Banks to be led by insiders.

AIBOC is fighting these issues under the umbrella of UFBU.

We, therefore, urge every Scale-IV and Scale-V colleague to recognize the grave and imminent

threat facing our cadre, stand firmly with the Association and the Union, and participate in the All India Bank Strike on 27 January 2026, with courage and conviction, to uphold fairness, due process, and the dignity and career protection of our fellow colleagues.

We reaffirm that the Confederation stands with every SCALE-IV/V member. We will pursue appropriate remedies, through UFBU/AIBOC and other competent forums to protect the rights, dignity and aspirations of each of our members and also in the interest of our institution.

With revolutionary greetings!

Comradely Yours,
Sd/-
Rupam Roy
General Secretary

Circular No. 2026/09

Date: 26/01/2026

Dear Comrades,

We reproduce the text of UFBU Circular UFBU/2026/07 dated 26.01.2026 for your information and necessary action.

**UFBU's call for Strike on 27th January, 2026
March on to make it a thunderous success
FAQ:**

Member-facing FAQ to stop rumours and share only verified points.

Date	27 January 2026
Strike period	Midnight of 26 January 2026 to midnight of 27 January 2026 (24 hours)
Called by	UFBU (platform of nine constituent unions/associations)
Main demand	Government approval for 5-day banking week and remaining Saturdays as bank holidays (as recommended by IBA)
What members should remember	Verify updates via official circulars/local unit; avoid unverified forwards

BETTER THAN A HUNDRED YEARS OF IDLENESS IS ONE DAY SPENT IN DETERMINATION

What is the strike on 27 January 2026?

A 24-hour, all-India strike call under the banner of UFBU. The strike notice states the strike is to press the long-pending demand for 5-day banking. Since 2015 the UFBU is demanding for 5 Day work week for its members.

What is the strike period?

From midnight of 26 January 2026 to midnight of 27 January 2026 (24 hours).

Who has called the strike?

UFBU - a forum of nine constituent unions/associations representing bank employees and officers.

What is the main demand?

Government approval for 5-day work week in banking and declaring the remaining Saturdays as bank holidays (recommended by IBA).

Has there been conciliation? Does the strike still stand?

Conciliation meetings were held on 22 and 23 January 2026 with DFS/Finance Ministry, IBA and UFBU. There was no firm timeline/commitment; the strike call stands.

Can the strike be reconsidered if there is a positive development?

If there is positive development before the evening of 26 January, it would be considered. Until such development is officially confirmed, the strike call stands.

Why we are striking? Why is this action being taken now?

The demand has remained pending for many months after being agreed/recommended, and there were repeated deferments on assurances. The strike is presented as a measure of last resort to secure implementation of the agreed

recommendation.

What documents are cited for the 5-day week recommendation?

A Memorandum of Understanding dated 07.12.2023 and a Joint Note/Settlement dated 08.03.2024 are cited in the materials as the basis for IBA recommending the 5-day week proposal to Government.

Is the objective to disrupt banking, or to get a decision?

The objective of the Strike is not to disrupt banking but for implementation of 5-day banking.

Participation and conduct

Who can participate?

All sections of bank employees/officers, including officers on Probation, Senior officers who are the members of the union/ Association.

Officers in Scale IV and above: what about intimidating letters/ communications?

The minutes of the conciliation meeting dated 22.01.2026 record that UFBU pointed out banks issuing/proposing intimidation letters to SMGS-IV/V to dissuade participation in lawful organisational programmes and the notified strike action. We are happy to share that the Conciliation Officer from the office of the Chief Labour Commissioner (Central) has taken a serious view of such threats/intimidations/coercions and therefore made the following remarks:

“At this stage, the bank managements are advised by the conciliation officer that every employee/officer has the lawful right to form associations and participate in legitimate trade union activities as enshrined in the Constitution of India, including duly notified organisational action. Any intimidatory or coercive communication, particularly those selectively addressed to SMGSIV/SMGS-V or issued as blanket deterrents and may amount to impermissible interference with trade union rights and may attract action u/s 25(U) of the ID Act, 1947. Accordingly, all such

YOU WILL NOT BE PUNISHED FOR YOUR ANGER, YOU WILL BE PUNISHED BY YOUR ANGER

letters/instructions already issued must be kept in abeyance and withdrawn/rescinded forthwith in order to avoid any legal complications.” (CLC Minutes dated 22.01.2026, attached)

Officers on probation: can they participate?

All under probation should join the strike. Officers on probation are therefore assured that there is no illegality involved in being members of a recognised Trade Union or in participating in its lawful programmes/activities and assertion of individual rights for a collective good. Extending the probation of an officer specifically for participating in a union-called strike is considered an **unfair labour practice** under Indian labour law, specifically the Industrial Disputes Act, 1947. Such an action is classified as victimization or discrimination based on legitimate union activities.

Members nearing retirement: will strike participation reduce pension?

IBA clarification (letter dated 25 February 2004) examined strikes in the last 10 months before retirement and stated such participation should not affect pension for all time to come.

It also states average emoluments for pension can be arrived at as per Regulation 38(4) of the Bank Employees’ Pension Regulations, 1995.

What about Section 36AD being quoted to stop demonstrations?

The Minutes of conciliation at the office of CLC dated 22.01.2026 record that some banks proposed to call demonstrations illegal by mis-quoting Section 36AD. The Minutes also record that the Government had assured on the floor of Parliament (1968) and advised RBI not to invoke Section 36AD, as noted in the proceedings.

What conduct is expected on strike day?

- Keep conduct peaceful and disciplined.
- Avoid provocative messaging or unverified forwards.
- Follow only the programme/instructions issued by your

local unit.

Media and public messaging

What can members say to customers/public in one line?

“A 24-hour strike is being observed to press for Government approval of 5-day banking and remaining Saturdays as holidays, as recommended by IBA.”

If media or customers ask for details beyond the demand, what should we do?

Share only the confirmed demand and strike period.

Refer them to the union’s official circulars/local unit for additional details.

Member support

Where do I check for authentic updates?

Use only official circulars/updates issued by constituent unions/associations and your local unit office-bearers.

Do not rely on forwarded screenshots without source.

What should I do if I receive/see an intimidatory letter or message?

Keep a copy/screenshot. The Minutes of conciliation at the office of CLC dated 22.01.2026 record advice that such letters targeting SMGS-IV/V should be withdrawn/kept in abeyance should be sent in response.

Inform your local unit/office-bearers promptly. With greetings,

Comradely Yours,

Sd/-
Rupam Roy
General Secretary

THE FOOL WHO KNOWS HE IS A FOOL IS MUCH WISER THAN THE FOOL WHO THINKS HE IS WISE

Dear Comrades,

We reproduce the text of UFBU Circular UFBU/2026/08 dated 27.01.2026 for your information and circulation.

**27.01.2026 - Strike a massive success
Red Salute to all our unions and members**

Congratulations to all our unions and members all over the country for the massive success of the strike at the call of UFBU to protest against the undue delay in approving the recommendations of the IBA on introduction of 5 Days Banking per week as agreed in the MOU dated 7-12-2023 and Settlement dated 8-3-2024 and demanding expeditious introduction of 5 days banking.

As per reports reaching us from different parts of the country, the strike was a huge success everywhere in all the Banks. The photos of the demonstrations held at various centres revealed the anger and resentment amongst the bank employees and officers over the Government's undue delay in considering our genuine demand when already IBA has agreed and signed the Settlement on the same. The response was wholesome and their participation was overwhelming.

This is all the more appreciable and commendable in the face of various attempts to intimidate, threaten and coerce a section of the officers with a view to prevent them from participating in the strike. This gave the impression that the entire machinery was more busy in scuttling the strike than to find amicable solution to our justified demand. But our members braved all these attempts and made the strike an unprecedented success.

Because of the strike, normal banking operations were greatly affected and paralysed. Large number of Branches were closed down. But our intention was not to disrupt the banking services. The objective of the strike call was to draw the attention of the Government to resolve our demand. Even as late as 22nd and 23rd January, 2026, during the conciliation proceedings, we tried our best to find solution to our

demand. But the approach of the Government was unhelpful.

When the Government wanted us to defer the strike, we informed the CLC and the Government that UFBU shall wait till the evening of 26th January to respond to any positive move of the Government. But unfortunately, there was no initiative from their side.

Thus the strike was forced on us and we have gone ahead with the strike call.

In many places, particularly in the northern States, the weather was inclement and unfavourable for rallies, etc. In Delhi, there was heavy rain. But all these difficulties did not deter or discourage our members. Our members went whole-hog and made the rallies and demonstrations to big success.

We once again greet, salute and congratulate all our Unions and members for the memorable success of today's strike.

We only hope that the concerned authorities would understand the mood of the bank employees and officers and our justified demand and take measures to resolve the same and introduce 5 days banking at the earliest.

UFBU meeting will be held at the earliest to take stock of the developments and decide our further course of action.

With revolutionary greetings,

Comradely yours,

Sd/-

Rupam Roy
General Secretary

EVERY HUMAN BEING IS THE AUTHOR OF HIS OWN HEALTH OR DISEASE

CIRCULARS

- 47 dated 24th December, 2025** : Text of UFBU Circular No. 2025/18 dated 24.12.2025 on our Demand for the introduction of 5 Days Banking
- 01 dated 01st January, 2026** : New Year Circular beaoning hope defying the paradox of aspirations
- 02 dated 04th January, 2026** : Text of UFBU Circular No. UFBU/2026/01 dated 04.01.2026 demanding introduction of 5 days Banking. Our X/Twitter campaign a commendable success and UFBU Call to observe strike on 27.01.2026.
- 03 dated 08h January, 2026** : Text of UFBU Strike Notice (Form-L) dated 08.01.2026.
- 04 dated 14th January, 2026** : Text of UFBU Circular No. UFBU/2026/04 dated 14.01.2026 on the call for all India strike on 27th January, 2026.
- 05 dated 16th January, 2026** : Text of UFBU letter no. UFBU/2026/LTR-1 dated 16.01.2026 on Complaint on anticipated Unfair Labour Practice
- 06 dated 18th January, 2026** : Text of UFBU Circular UFBU/2026/06 dated 18.01.2026 on Unified Voice of Bank Employees on Historic Digital Mobilisation: UFBU's X (Twitter) Campaign a Grand Success Gear Up for All India Bank Strike on 27th January, 2026
- 07 dated 23rd January, 2026** : Text of UFBU Circular UFBU/2026/06 dated 23.01.2026 on UFBU's call for Strike on 27th January, 2026 Conciliation meeting held – No positive development Go ahead and make the Strike a total success

JUDICIAL

**[2025 (185) FLR 88]
(SUPREME COURT)
SUDHANSHU DHULIA AND K. VINOD CHANDRAN, JJ.
Civil Appeal No. 2586 of 2025
February 17, 2025
Between
SHANTI and others
and
NATIONAL INSURANCE Co.**

Employee's Compensation Act, 1923-Sections 4-A (2) and (3)-Interest payable under Act, 1923-Under section 4-A (3) of Act, the 12% interest liability arises on default of the employer if the compensation is not paid within one month from the date it fell due-Learned Commissioner found the relation of

HE WHO SEEKS HAPPINESS BY HURTING WILL NEVER FIND IT

father and son as employer-employee leading to the award of compensation with 6% interest per annum and also a further 40% as penalty for the default committed-Insurance company had not filed any appeal against the said order-Award of 6% interest affirmed by High Court- *In the present appeal by claimants, the insurance company neither put out its liability to pay interest nor could it claim recovery from the insured-Award of interest i.e. 12% from the date of accident modified* -Appeal allowed. [Paras 6 to 10]

JUDGMENT

K. VINOD CHANDRAN, J. - Leave granted.

2. The only question raised in the appeal is as to the interest payable under the Employee's Compensation Act, 1923. The Insurance Company's argument is that when there is a default in complying with Section 4-A (2); mandating the employer, disputing a liability, to make provisional payment based on the extent of liability, which payment has to be either deposited with the Commissioner or disbursed to the employee or legal representatives, the additional liability incurred on such failure cannot be mulcted on the insurer. Sub-section (3-A) provides that on default to pay the compensation within one month from the date it fell due, the employer shall pay, in addition to the amount of arrears, simple interest at the rate of 12 % per annum or at such higher rate not exceeding the maximum lending rate prescribed for scheduled banks by sub-clause (a) and sub-clause (b) further provides a penalty not exceeding 50 % of such award amounts.

3. It is the submission of the learned counsel for the appellants that there is a statutory mandate to award interest under sub-section 3(a) @ 12 % per annum and the discretion conferred on the Commissioner is only to the extent of granting a higher rate, which again should not exceed the lending rate specified for scheduled banks.

4. The learned Standing Counsel for the respondent-Insurance Company refutes the claim, on the contention that the insurer is not liable to

indemnify the insured for the default committed by the insured. It is pointed out that in the present case the owner of the vehicle, was the father of the deceased and the contention was that the deceased was employed as a cleaner in the truck owned by the father. The mother and the other siblings were the claimants. There is a specific contention taken by the Insurance Company that there was no intimation about the accident, given to the Insurance Company. It is submitted that even if the liability is mulcted on the Insurance Company, they are entitled to recover the interest awarded, from the insured; since there is no question of indemnification of a default committed by the employer.

5. At the outset, we have to find that there is a mandate in so far as payment of 12% interest if there is a default committed in making the provisional payment. We cannot but notice that under Section 4-A(3), the interest liability arises on default of the employer, in paying the admitted compensation due under the Act within one month from the date it fell due and if there is such default, necessarily interest shall run at the rate provided. That the interest runs from the date of the accident is declared by this Court in *Pradeep Narain Singh Deo v. Srinivas Sabate* ; ⁺and *North East Karnataka Road Transport Corporation v. Sujatha* .

6. That the interest statutorily provided is 12% comes out from the provision itself. The discretion is only in so far as awarding a higher rate of interest; exceeding the prescribed lending rates applicable to scheduled banks. The discretion is only in so far as applying a higher rate, ensuring that it does not exceed the lending rate prescribed for scheduled banks. Hence 12 % simple interest per annum necessarily has to be applied. The legislative intent is very clear insofar as sub-clause (b) of Section 4-A(3) conferring a discretion on the Commissioner/Authority to impose a penalty not exceeding 50 % of the amounts awarded while no such discretion is available under clause (a). In the instant case, the Commissioner has awarded only 40 % penalty.

DO NOT DWELL ON THE PAST OR FUTURE. CONCENTRATE ON THE PRESENT MOMENT

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7. The question of whether the son's employment in the father's vehicle can inure to the benefit of the legal representatives, to raise a claim for compensation under the Act, cannot now be agitated. The claim petition was once dismissed on that ground and the claimants had approached the High Court. Annexure P-1 appellate order found the claim to be maintainable and directed a fresh consideration based on the evidence led, as to the employer-employee relationship. The Commissioner under the Act has considered the evidence and found the employer-employee relationship to be in existence leading to the award of compensation with 6% interest per annum and also a further 40% as penalty for the default committed.

8. We have to notice specifically that the Insurance Company was impleaded in the claim petition and the direction was also to the non- applicant No. 2; the Insurance Company, to pay the compensation, interest and penalty. There is no appeal filed by the Insurance Company against the said order and hence, there cannot be any claim raised as of now;

for recovery of the interest amounts it is made liable under the award. The award of 6 % interest itself was confirmed by the High Court, in an appeal filed by the claimants; which appeal sought award of interest from the date of accident and also enhancement of the rate, the enhancement being declined. There was no appeal or cross-appeal filed by the Insurance Company against the 6% interest awarded and, in that circumstance, in a further appeal by the claimants filed before this Court, the Insurance Company can neither wriggle out of its liability to pay the interest amount as flowing from the award nor can it claim recovery from the insured.

9. On the above reasoning, we find the claim of the appellants to be substantiated by the statutory provision. We modify the award insofar as the rate of interest @ 12 % per annum from the date of accident.

10. The appeal stands allowed in the above terms.

11. Pending application(s), if any, shall stand disposed of.

Appeal Allowed.

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