

Jamal Khurshid

SHC orders framing of rules for employees social security law

The Sindh High Court (SHC) has directed the law secretary to ensure that rules of the Sindh Employees Social Security (SESS) Act are framed within one month.

Hearing a petition of Niaz Mohammad seeking payment of compensation and safety measures for employees at their workplaces, a division bench of the SHC headed by Justice Salahuddin Panwhar also directed the Sindh Employees' Social Security Institution (Sessi) commissioner to submit details about benefits that the workers in Sindh were receiving from Sessi.

The bench observed that the government was not expected to rest after passing the law but required to ensure that after completing formalities which is not limited but includes framing of rules, as well as making defined offices functional.

A family member of the petitioner, Mohammad Amir, along with five other employees of the Honda Atlas factory had lost their lives during a blast in the factory furnace on November 15, 2018. The petitioner demanded action against the factory management, along with compensation and safety measures for the workers in the factory.

The high court observed that there can be no denial to the fact that the state was the ultimate custodian of the security of common men and when it came to social security, again it became the responsibility of the state to provide mechanism that would ensure social security to the poor.

The SHC was informed that the SESS Act 2016 provides for the constitution of a governing body to approve budget estimates, audited accounts and the annual report of the institution for its submission to the government and call report for any information and direct any research to be carried out for the furtherance of the objects of the law.

The high court observed that despite the lapse of considerable period, the rules had not been framed as acknowledged by the law officer, which being driving tools were required to be framed. The court directed the law secretary to ensure that rules are framed within one month in juxtaposition of the rules already framed in the old Sessi law.

The SHC observed that the applicability of the Act was confined to only socially secured persons and pointed out that how one could be expected to know the benefit of some available option unless they were told.

The high court observed that it was a duty of government departments, including the labour department, to make benefits divulged to such class of people. The SHC directed the commissioner of Sessi and the labour department to coordinate with each other to share the list of such class of people and to inform both the employers and employees of the balance between their rights and obligations and that how such balance could help achieve social security of the employees without much burden upon the employers.

The SHC observed that the labour department was always believed to have enrolment/registration of employees. The bench directed the Sessi commissioner to submit a report showing as to whether the requirements of the sections 21 to 23 of the Act were being complied with or otherwise.

The bench gave further directive that the report shall also give details about workers in Sindh that had been benefits. It directed Sessi to submit its complete details of the last 10 years, including the registration of workers and awareness programmes it had initiated to ensure the registration of workers in the public and private sector.

The SHC directed that labour secretary to ensure that the employee social security law was made known to common people.

Regarding the payment of compensation to the legal heirs of victims, the respondent's counsel submitted that heirs of the deceased had not provided the proof of heirship in the documents and refused to accept the amount of Rs6,676,542 whereas Rs80,289 had been paid. The counsel submitted that pension amount shall be paid when the legal heirs of the victims would submit their heirship certificate.

The SHC directed that the cheque of the aforesaid amount shall be prepared in the name of Nazir of the court and thereafter legal heirs would be competent to receive the same by filing application for succession certificate. The labour department official submitted that they had conducted an inquiry into the matter and the case had been sent to a labour court against the manager. The court adjourned the hearing of the case till November 11.