

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
FIRST APPEAL NO.175 OF 2000

- 1] Smt. Pratibha Suresh Hazare,
age 25 years, occ. Household,
r/o. Pachora, Deshmukh Wadi,
Tal. Pachora, Dist.Jalgaon
- 2] Pawar @ Sagar Suresh Hazare,
Age 6 years, occ. Education,
- 3] Vishwash Suresh Hazare,
Age 4 years, Occ. Nil,
- 4] Rhishikesh Suresh Hazare,
Age 1 year, occ. Nil,

Appellant nos.2 to 4 minor,
through their guardian mother
Smt. Pratibha w/o. Suresh
Hazare

..Appellants

Versus

- 1] Vikas Ramchandra Joshi,
Age 35 years, occ. business,
R/o.Chalisgaon, Tq.chalisgaon,
District Jalgaon
- 2] Hiranman Ramrao Jadhav,
Age 40 years, occ. Driver,
r/o. Behind State Bank of India,
Chalisgaon, Dist.Jalgaon
- 3] New India Insurance Co. Ltd.,
Navi Peth, Jalgaon,

4] Pandit Motiram Hazare,
age 70 years, occ.nil,
r/o. Chalisgaon, dist.Jalgaon,

5] Smt. Radhabai w/o. Pandit Hazare,
age Adult, occ.Household,
r/o. Pachora, Tq. Pachora,
Dist. Jalgaon. ..Respondents

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Mr.S.P.Shah, advocate i/b. Mr.P.M.Shah, Senior
counsel for appellants

Mr.D.B.Thoke, advocate for respondent no.1

Mr.A.D.Shinde, advocate for respondent nos.4 and 5

Mr.S.G.Chapalgainkar, advocate for respondent no.3

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CORAM : M.T. JOSHI, J.

DATE : JANUARY 20, 2015

ORAL JUDGMENT :

Heard both sides.

2] Aggrieved by non grant of interest on the
compensation awarded by learned Member of the
Motor Accident Claims Tribunal, Jalgaon, from the
date of filing of the application seeking

exemption from the payment of Court fees, present appeal is preferred.

3] The appellants had filed an application being Misc. Civil Application No.142 of 1990, seeking exemption from payment of the court fees on the ground that they did not have sufficient funds to pay the court fees of Rs.167.90. The record shows that said application was allowed on 30th September, 1997. Thereafter, the petition under Section 166 of the Motor Vehicles Act, 1988 (for short "the Act"), was proceeded with. Learned Member, after the trial, granted compensation of Rs.2,48,400/- to the appellants i.e. dependents of deceased - Suresh Hazare. So far as the interest is concerned, the same was granted at the rate of 12% per annum from the date of registration of the application i.e. 25th June, 1997. Learned Member observed that since the application for exemption

from payment of the court fees, was allowed in the year 1997, the respondents cannot be held liable for the said delay and therefore, the interest for the said period was refused.

4] Mr.Shah, learned counsel for the appellants, submits that the poverty of the appellants cannot be blamed. He submits that no sooner the claim petition was filed, the respondents ought to have offered the compensation amount which, according to him, would be just. In this regard, he relies on the ratio of decision of this Court in the case of ***Dnyandeo Karbhari Nagare Vs. Gitaram Shankar Wakchaure and ors., 2004(4) Mh.L.J. 644.***

5] On the other hand, Mr.Chapalgaonkar, learned counsel for respondent no.3, opposes the appeal.

He submits that when the application of present appellants for exemption of the court fees was pending for seven years and only thereafter, upon registration of the petition under Section 166 of the Act, notices were issued to present respondents in the year 1997, concerned respondents cannot be held liable for payment of the interest since the provisions would show that the Tribunal has discretion to grant interest from the date of filing of the petition and not earlier to the same. In the circumstances, he submits that the appeal may be dismissed.

6] On the basis of this material, following point arises :-

" Whether the appellants are entitled for interest from the date of filing of the application seeking exemption from payment of the court fees or from the date of registration of the petition under Section 166 of the Motor Vehicles

Act ? If yes what interest would be just and reasonable ?

7] According to me, learned Member ought to have granted interest from the date of filing of the application seeking exemption from payment of court fees. Considering the nature of the period, in my view, the interest at the rate of 6% per annum would be just, for the reasons to follow.

8] In the case of *Dnyandeo (detailed supra)*, relying on the provisions of Section 110-CC of the Act (as it stood at the relevant time), which is again incorporated in Section 171 of the Act, it was held that simple interest at such rate can be granted by the Tribunal from such date not earlier than the date of making the claim.

9] In the circumstances, though it cannot be said that present respondents cannot be blamed for the decision on such application after a period of seven years, at the same time, present appellants also cannot be blamed. In the case of *Dnyandeo (detailed supra)*, no interest, at all, was granted by the Tribunal on the awarded compensation and no reasons were forwarded. In the circumstances, it was held that the appellants would be entitled for the interest at the rate of 6% per annum. In the present case, learned Member has already granted interest at the rate of 12% per annum from the date of registration of the application. Having considered all the facts and that none of the parties can be blamed for delay of seven years in decision on the application filed by the appellants for grant exemption from payment of court fees, in my view, direction to pay simple interest at the rate of 6% per annum from the date

of filing of such application till the date of registration of petition under Section 166 of the Act would meet the ends of justice.

10] Hence, the following order :-

a] The appeal is hereby partly allowed.

b] Present respondent nos.1 to 3 are directed to pay simple interest at the rate of 6% per annum from the date of filing of the application for grant of exemption from payment of court fees, till the date of registration of the claim petition with proportionate costs.

c] Respondent no.3 is directed to deposit the additional amount within a period of eight weeks in this Court from the date of preparation of

decree. Upon failure, the appellants would be entitled for interest at the rate of 12% per annum on the calculated amount.

[M.T. JOSHI, J.]

kbp