

drp

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO.133 OF 2002

Vasudev Anant Kulkarni,
Age-39 years, Occ - Service
R/o H. No. 441, Flat No. 8,
3rd Floor, Vrindavan Apartment,
Satbhai Lane, Near Chitale Road,
Ahmednagar

APPELLANT

VERSUS

Executive Engineer,
Maharashtra State Electricity Board,
Rural Division, Ahmednagar

RESPONDENT

.....

Mr. V. N. Upadhye, Advocate for the appellant
Mr. H. M. Karwa, Advocate for the respondent sole

.....

[CORAM : M. T. JOSHI, J.]

DATE : 12th MARCH, 2015

ORAL JUDGMENT :

1. Heard both the sides.
2. Limited issue in the present first appeal arising out of the order passed by the learned Commissioner in the proceedings under section 22 of the Workmen's Compensation Act, is about period of interest granted by the Commissioner.
3. Present appellant has filed said application in the year

1987 seeking compensation on the ground, he was workman under the present respondent. It was initially returned to him by the commissioner on the ground of want of jurisdiction. In the circumstances, the appellant took the matter to this Court vide first appeal No. 436 of 1992. This Court held that the appellant is the workman and the case was remanded back to the learned Commissioner. Upon hearing both the sides, learned Commissioner came to the conclusion that the compensation at Rs.69,309/- is due, which was directed to be paid with interest @ 6% p.a. from 11th January, 1994, i.e. from the date of order of this Court remanding the case.

4. Mr. Upadhye, learned counsel for the appellant submits that only because the appellant has taken the matter to this Court and the same was ultimately remanded, cannot be a ground for refusal of interest from the date of the accident, as per the statutory provisions, as contained in Section 4A of the Workmen's Compensation Act. He relies on the ratio of the Supreme Court in "***The Oriental Insurance Company Ltd., V. Siby George and Others***" reported in ***AIR 2002 SC 3144***.

5. Mr. Karwa, learned counsel for the respondent opposes the submissions.

6. Since no substantial question of law was formulated earlier, upon hearing both the sides, following substantial question of law is framed:-

"Whether the learned Commissioner has committed a patent error in ignoring the statutory provisions of section 4A of the Workmen's Compensation Act, regarding the period of interest?"

7. My finding to the said question is in the affirmative. The appeal is, therefore, allowed with costs for the reasons to follow:

REASONS

8. Section 4A of the Workmen's Compensation Act, 1923 provides that the compensation should be deposited with the Commissioner within a period of thirty days from the date of the accident and if the same is not deposited, interest shall be levied from the date it becomes due i.e. from the date of the accident. Similar is the ratio in "The Oriental Insurance Co. Ltd., V/s Siby George", as cited above. In the circumstances following order.

ORDER

1. The appeal is hereby allowed with costs.

2. The direction of the learned Commissioner for payment of interest @ 6% p.a. from 11th January, 1994 is hereby set aside and instead it is hereby directed that interest @ 6% p.a. on the compensation shall be paid from the date of accident i.e. 19.10.1985, till the realization of the amount of compensation.
3. Civil Application No.2249 of 2015, therefore, does not survive and the same is disposed of.

[M. T. JOSHI, J.]