THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY
CMA No.1096 of 2005

JUDGMENT:

1 This appeal is filed under Section 30 of the Workmen's Act, 1923 (for short 'the Act') challenging the order dated 29.07.2004, passed in W.C.No.19 of 2004 on the file of The Commissioner For Workmen's Compensation and Assistant Commissioner of Labour, Karimnagar.

2 For the sake of convenience, the parties will hereinafter be referred to as they are arrayed before the Commissioner.

3 The facts leading to the filing of the present appeal are as follows:

4 The applicants who are widow, minor son, mother and minor brother of one Ashok, filed claim petition before the learned Commissioner claiming compensation of Rs.4,16,568/- along with interest from the Opposite Party Nos.1 and 2 for the death of Ashok (the deceased) who died during the course of employment under the Opposite Party No.1.

5 The Opposite Party No.2 contested the claim petition by filing counter. During the course of enquiry, on behalf of the applicants P.Ws.1 and 2 were examined and Exs.A.1 to A.5 were marked. On behalf of the Opposite Parties no oral evidence was let in. But copy of the insurance policy was marked as Ex.R.1 on behalf of the Opposite Party No.2.

6 After appraising the oral, documentary evidence and other material available on record, the learned Commissioner allowed the petition partly by awarding an amount of Rs.2,31,802/- as compensation with interest @ 9% p.a. to the applicants. Feeling aggrieved by the award passed by the learned Commissioner, the

Opposite Party No.2 i.e. insurance company has filed the present appeal.

7 The contention of the learned counsel for the appellant – Opposite Party No.2 is that the learned Commissioner awarded interest @ 9% p.a. from the date of accident till the date of deposit, which is not permissible under law.

8 *Per* contra, the learned counsel for the applicants submitted that as per the provisions of the Act, the applicants are entitled to interest from the date of accident till the date of deposit.

9 Basing on the above rival contentions, the only point that arises for consideration, in this appeal is -

> "Whether the Commissioner is justified in awarding interest @ 9% p.a. from the date of accident till the date of deposit?"

10 There is no dispute between the parties with regard to the quantum of compensation awarded by the Commissioner. To substantiate the stand, the learned counsel for the applicants has drawn my attention to the ratio laid down by the Hon'ble apex Court in ***Oriental Insurance Co. Ltd Vs. Siby George & Sons***[1] wherein the Hon'ble apex Court held at Para Nos.10 to 12 as under:

> 10. The Court then referred to a Full Bench decision of the Kerala High Court in ***United India Insurance Co. Ltd.* v. *Alavi*** *{1998 (1) KerLT 951(FB)}*, and approved it insofar as it followed the decision in ***Pratap Narain Singh Deo Vs. Shrinivas Sabata and Another*** *{AIR 1976 SC 222}*.
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> 11. The decisions in *Pratap Narain Singh Deo* was by a four-Judge Bench and in ***Kerala State Electricity Board Vs. Valsala.K*** *{AIR 1999 SC 3502}* by a three-Judge Bench of this Court. Both the decisions were, thus, fully binding on the Court in ***National Insurance Co. Ltd Vs. Mubasir Ahmed and Another*** *{(2007) 2 SCC 349}* and ***Oriental Insurance Company Ltd. Vs. Mohd. Nasir and another*** {(2009) 6 SCC 280}, each of which was heard by two Judges. But the earlier decisions in *Pratap Narain Singh Deo* and

Valsala K. were not brought to the notice of the Court in the two later decisions in *Mubasir Ahmed* and *Mohd. Nasir*.

> 12**.** In the light of the decisions in *Pratap Narain Singh Deo* and *Valsala K.*, it is not open to contend that the payment of compensation would fall due only after the Commissioner's order or with reference to the date on which the claim application is made. The decisions in *Mubasir Ahmed* and *Mohd. Nasir* insofar as they took a contrary view to the earlier decisions in *Pratap Narain Singh Deo* and *Valsala K.* do not express the correct view and do not make binding precedents.

11 As per the principle laid down by the Hon'ble apex Court in the case cited supra, it is clear that payment of compensation would fell due from the date of accident. Sub-Section 3 of Section 4-A of the Act mandates that the employer shall pay simple interest at the rate of 12% p.a. if the employer commits default in payment of compensation fell due under the Act.

12 Having regard to the facts and circumstances of the case and in view of the principle laid down in the case cited supra, I see no merit in this appeal and accordingly the appeal is dismissed. No costs. As a sequel, the miscellaneous petitions, pending in this appeal, if any, shall stand closed.

T. SUNIL CHOWDARY, J

Date: 16.07.2015
Kvsn

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[1] (2012) 12 SCC 540 = 2012 (2) ACJ 691