

**THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI**

**CIVIL MISCELLANEOUS APPEAL No.141 of 2015**

**JUDGMENT:-**

This appeal by the appellant/second opposite party under Section 30 of the Workmen's Compensation Act, 1923, presently known as Employees Compensation Act, 1923, ('the Act', for brevity) is directed against the order dated 09.02.2015 in W.C.No.175 of 2014 passed by the Commissioner for Employees' Compensation and the Assistant Commissioner of Labour – IV, Hyderabad.

2. I have heard the submissions of the learned counsel for the appellant/second opposite party ('the second opposite party', for brevity) and the learned counsel for the first respondent/applicant ('the applicant', for brevity). The second respondent herein/the first opposite party is stated to be not a necessary party. I have perused the material record.

3. The introductory facts, in brief, are as follows:

The applicant had filed the compensation case against the opposite parties, claiming compensation under the provisions of the Act, *inter alia* stating that he was employed as a driver on the lorry bearing registration no. AP 24 V 2489 belonging to the first opposite party and that he had sustained injuries and suffered disability due to his involvement in an accident that had occurred on 18.04.2008 out of and during the course of his employment and that the said lorry was insured with the second opposite party and that, therefore, both the opposite parties are liable to pay a compensation of Rs.8,00,000/- with interest and costs. The first opposite party, having filed a counter, admitted the employment of the applicant under him as driver on his lorry and also the occurrence and the manner of the accident and the applicant sustaining injuries out of and during the course of employment under him, but, had further stated that his lorry was insured with the second opposite party and that, therefore, he is not liable to pay the compensation and that the second opposite party alone is liable to pay the compensation, if

any, payable to the applicant. The second opposite party had resisted the claim by raising various grounds in its counter. At trial, the applicant and a doctor were examined as AWs 1 and 2 and exhibits A1 to A9 were marked. A Senior Assistant in the office of the Road Transport Authority, Nalgonda and an officer of the second opposite party were examined as RWs 1 and 2 and exhibits B1 to B4 were marked on the side of the 2<sup>nd</sup> opposite party. No oral and documentary evidence was adduced on the side of the first opposite party. On merits, the learned Commissioner having allowed the application of the applicant had awarded a compensation of Rs.2,37,920/- to the applicant recoverable from the opposite parties 1 and 2 with interest at the rate of 12% from 19.05.2008 till the date of realization. The learned Commissioner had further directed that the said compensation be deposited, within 30 days from the date of receipt of the copy of the said order, by way of demand draft drawn on any nationalized bank in favour of the Commissioner for Employees' Compensation and the Assistant Commissioner of Labour-IV, Hyderabad. Aggrieved of the said orders, the second opposite party had preferred this appeal.

**4.** At the time of hearing, the learned counsel for the second opposite party raised two principal grounds. The first ground is on the aspect of the quantum of compensation and the second ground is on the aspect of rate of interest and the liability of the second opposite party to pay the interest on the compensation amount.

**5.** In view of the rival contentions, the points that arise for determination are:

- 1. What was the percentage of physical disability and the consequential loss of earning capacity suffered by the applicant? Whether the learned commissioner had erred in determining the loss of earning capacity at 45%?**
- 2. Whether the Commissioner had committed error in awarding interest at 12% per annum on the compensation amount as contended by the second opposite party?**
- 3. To what relief?**

**6. POINT No.1:**

**6.1** To begin with, it is necessary to first deal with, the contentions of the

learned counsel on the percentage of the disability and the quantum of compensation. The said contentions may be stated as follows: “AW2 did not treat the applicant immediately after the applicant had sustained injuries; Hence, his evidence determining the physical disability and the loss of earning capacity at 45% is not credible; the learned Commissioner erred in appreciating and relying upon the evidence of AW2-the doctor, who had not treated the applicant; The learned Commissioner grossly erred in taking the loss of earning capacity of the applicant at 45% while computing the compensation. Though the applicant had sustained injuries in the accident, he had renewed his driving license after the accident; The said fact is established by examining RW1 and exhibiting exhibit B2 – the extract of the driving license issued by the RTO concerned; Therefore, there is sufficient evidence on record to show that the applicant was and is capable of driving the vehicle despite the injuries sustained and the disability, if any, suffered by him; the fact that the licence was renewed is suggestive of the fact that he is hale and healthy and is fit to drive the lorry as in the past. The percentage of disability and the loss of earning capacity determined @ 45% by the learned Commissioner is erroneous and as such, the compensation awarded is to be scaled down.”

**6.2** On the other hand, the learned counsel for the applicant would submit as follows: ‘The medical record of the applicant would show that he was treated by AW2. Merely because the applicant had renewed his driving license, there cannot be any inference that he is capable of driving heavy vehicles. The second opposite party did not adduce any evidence to show that after the accident, he was again employed under the first opposite party or that he was working elsewhere as a driver on any heavy vehicle. Therefore, in the absence of any evidence that he is continuing to work as a driver, the mere fact that he had got his driving license renewed does not advance the case of the insurance company. The learned Commissioner had properly and correctly appreciated the facts and the evidence on record and had correctly determined the loss of earning capacity of the applicant and had awarded reasonable compensation. Therefore, there is no need to interfere

with the quantum of compensation awarded by the learned Commissioner. No substantial questions of law are involved. The appeal is devoid of merit and is hence, liable to be dismissed.”

7. I have bestowed my attention to the facts and I have noted the submissions. Dealing first with the aspect that the driving license of the applicant was renewed twice after the accident, there is sufficient evidence on record to show that the driving license of the applicant was renewed twice, after the subject accident. RW1, who is the Senior Assistant in the office of the Regional Transport Office, Nalgonda, who had appeared as a witness before the learned Commissioner on service of witness summons had produced exhibit B2 – the registration extract of the driving license of the applicant and had deposed that the license of the applicant insofar as it authorized him to drive non-transport vehicles and transport vehicles was valid up to 09.12.2004 and 07.02.2016 respectively. He had further testified that the driving licence of the applicant authorized him to drive transport vehicles and his licence in that regard was valid up to 24.02.2009 and that the said licence was renewed twice up to 07.02.2013 and 07.02.2016. According to his evidence, unless a person is found fit to drive the vehicle, the licence issued will not be renewed and that at the time of seeking renewal of the licence the applicant has to submit a renewal form and a medical certificate. In his cross-examination, he had denied the suggestion that the applicant had never approached his office for renewal of driving licence but, had admitted that he did not bring to the Court the application (renewal form-9) and medical certificate (Form 1A) submitted; if any, by the applicant to his office at the time of submitting the application for renewal of the licence.

RW2, an officer of the insurance company was also examined to reiterate that the applicant had got his licence renewed twice after the accident and that the said fact shows that he is fit to drive the vehicle as in the past and that, therefore, he did not sustain any permanent disability or loss of earning capacity. As rightly contended by the learned counsel for the applicants, for the reasons best known, the second opposite party did not summon the said witness (RW1) to produce the said relevant documents, if any, submitted by

the applicant at the time of renewal of his driving license. Further, the second opposite party did not adduce any evidence to show that the applicant was continuing to work under the first opposite party or elsewhere as a driver on a heavy vehicle. From the material record, it appears that it is not even suggested to AW1 that he is still working as driver after getting his driving license renewed from time to time. In the light of the fact that RW1 did not produce the crucial documents, viz., the Form 9 (Renewal application form) and Form 1A (medical certificate), if any, submitted by the applicant at the time of seeking renewal of the driving licence and in the absence of any evidence brought on record that the applicant is continuing to work as a driver, there cannot be any inference that the driving license of the applicant was renewed after he had produced before the Regional Transport office the medical certificate certifying his fitness to drive a lorry. There cannot also be an inference that he is fit to drive a lorry more particularly in the light of the evidence adduced regarding his disability. Now, it is necessary to refer to the evidence brought on record regarding the disability suffered by the applicant on account of the injuries sustained by him in the accident.

8. On the aspect of the percentage of loss of earning capacity determined by the doctor and accepted by the learned Commissioner, the learned counsel for the 2<sup>nd</sup> opposite party having contended that AW2, the doctor had not treated AW1, and that therefore, the disability certificate issued by him has no probative value, had placed reliance on the following proposition in

the decision in *Raj Kumar Vs. Ajay Kumar and another*<sup>[1]</sup>.

**The Tribunal should also act with caution, if it proposed to accept the expert evidence of doctors who did not treat the injured but who give 'ready to use' disability certificates, without proper medical assessment. There are several instances of unscrupulous doctors who without treating the injured, readily giving liberal disability certificates to help the claimants. But where the disability certificates are given by duly constituted Medical Boards, they may be accepted subject to evidence regarding the genuineness of such certificates. The Tribunal may invariably make it a point to require the evidence of the Doctor who treated the injured or who assessed the permanent disability. Mere production**

**of a disability certificate or Discharge Certificate will not be proof of the extent of disability stated therein unless the Doctor who treated the claimant or who medically examined and assessed the extent of disability of claimant, is tendered for cross-examination with reference to the certificate. If the Tribunal is not satisfied with the medical evidence produced by the claimant, it can constitute a Medical Board (from a panel maintained by it in consultation with reputed local Hospitals/Medical Colleges) and refer the claimant to such Medical Board for assessment of the disability.**

In view of the contention, it is necessary to refer to the provision of Section 2(i) of the Act, which reads as follows:

**2(i) “qualified medical practitioner” means any person registered under any Central Act, Provincial Act, or an Act of the Legislature of a State providing for the maintenance of a register of medical practitioners, or, in any area, where no such last-mentioned Act is in force, any person declared by the State Government, by notification in the Official Gazette, to be qualified medical practitioner for the purposes of this Act.**

The said provision makes it obvious that any Civil Surgeon and a registered medical practitioner like AW2 is competent to issue a disability certificate certifying the disability. Coming now to the evidence of AW2 and the weight to be attached to the evidence of the said witness, it is apt to note that AW2 had testified that he has been practicing as an Orthopedic Surgeon at Mother Theresa Orthopedic Hospital, Devarakonda and that on 22.04.2012 the applicant came to the hospital with history of injuries sustained by him in a road traffic accident on 18.04.2008 and that on examination of the applicant and on further investigations he had found that the applicant had sustained comminuted fracture lateral malleolus right ankle due to crush injury of right ankle and that on the same day, he was admitted in the hospital and that he had underwent a surgery for the said fracture injury and that on 22.04.2008 wound debridement and K-Wire fixation of malleolus and skin grafting was done and that he was discharged from the hospital on 21.05.2008 and that the applicant came to him for follow up treatment and that he had issued exhibit A4 discharge card and also exhibit A5 disability certificate and that he

had certified the disability at 45% and that on 26.02.2013, the applicant again came to his clinic complaining pain and that at that time, on examination of the applicant, he had found that the applicant was suffering with post traumatic stiffness of right ankle due to comminuted fracture of malleolus of right ankle. In the cross-examination, when it was suggested to AW2 that he did not treat the applicant immediately after the accident, he had admitted the said suggestion but, had stated that he is competent to issue the disability certificate being an Orthopedic surgeon and having treated the applicant subsequent to the accident when he came to his hospital with history of injuries sustained in the road traffic accident. He had denied further suggestion that he had issued exhibits A4 and A5 with a view to help the applicant to claim more compensation. According to the evidence of this doctor, the applicant suffered physical disability of 45%, which was partial and permanent in nature and the loss of earning capacity also at 45% and that due to the said disability the applicant cannot drive vehicles as in the past. Considering this evidence, the learned Commissioner had taken the loss of earning capacity of the applicant at 45%. Having regard to the evidence on record, in the well-considered view of this Court, it cannot be said that AW2 did not at all treat the applicant. Though he had treated the applicant after four years after the accident, he had examined the applicant physically and advised investigations and gave follow up treatment and had finally issued the disability certificate, after examining the applicant in his clinic on 26.02.2013, i.e., about 10 months thereafter. The doctor was also examined to prove the contents of the disability certificate issued by him and the extent of disability suffered by AW1 and was also tendered for cross-examination. Therefore, in the peculiar facts of the case, the decision in **Raj Kumar** (1 supra) relied upon by the learned counsel stating that the evidence of the doctor cannot be relied upon, does not advance the defence of the second opposite party. In Raj Kumar's case cited supra, the Supreme Court had explained the distinction between 'physical disability' and 'functional disability' and had enumerated the principles governing the determination of the loss of earning capacity and loss of future earnings resulting from the permanent disability arising from injuries. The enumerated principles are as

follows:

**“We may now summarise the principles discussed above:**

- (i) All injuries (or permanent disabilities arising from injuries), do not result in loss of earning capacity.**
- (ii) The percentage of permanent disability with reference to the whole body of a person, cannot be assumed to be the percentage of loss of earning capacity. To put it differently, the percentage of loss of earning capacity is not the same as the percentage of permanent disability (except in a few cases, where the Tribunal on the basis of evidence, concludes that percentage of loss of earning capacity is the same as percentage of permanent disability).**
- (iii) The doctor who treated an injured-claimant or who examined him subsequently to assess the extent of his permanent disability can give evidence only in regard the extent of permanent disability. The loss of earning capacity is something that will have to be assessed by the Tribunal with reference to the evidence in entirety.**
- (iv) The same permanent disability may result in different percentages of loss of earning capacity in different persons, depending upon the nature of profession, occupation or job, age, education and other factors.”**

In **United India Insurance Co., v. S.K. Razak and another [CMA.Nos.235, 250 and 251 of 2005 dated 27.02.2015]** the facts show that this Court having regard to the facts and evidence on record did not accept the loss of earning capacity assessed at 100% by the learned Commissioner in the batch of three appeals. The percentages in this cited case were fixed having regard to the facts and the evidence in the batch of cases. The decision in **S.Suresh v. Oriental Insurance Co.Ltd., and Another** <sup>[2]</sup> was not brought to the notice of this Court in S.K.Razack's case (unreported). In the decision in **S.Suresh v. Oriental Insurance Co. Ltd., and Another** (2 supra), the facts disclose that the claimant in that case who was of 25 years of age and earning Rs.4,000/- per month besides daily allowance had suffered permanent disability which prevented him from engaging him in the job of driver, which he used to do earlier. In this cited case, evidence was brought on record that he had suffered 93% permanent disability in his right leg and he will not be able to do the job of a driver or any other job because he will not be able to

stand or walk without support; therefore, the Commissioner came to the conclusion that the claimant's right leg up to the knee having been amputated, he has suffered a loss of 100% of his earning capacity as a driver. In this background the correctness of the said finding was questioned on the ground that as per the Schedule to the Act, the loss of a leg on amputation amounted to a 50% reduction in the earning capacity, and accepting the said contention the High Court had reduced the compensation by 50%. Then, the correctness of that judgment was questioned mainly on the ground that the claimant being a lorry driver, the loss of his right leg *ipso facto* meant a 'total disablement' as understood in terms of Section 2(1)(l) of the Act and as such the compensation payable to the claimant had to be computed on that basis. In support of the plea, reliance was placed on a four-Judge Bench decision of the Supreme Court in ***Pratap Narain Singh Deao v. Srinivas Sabata and Another [(1976) 1 SCC 289]***. In that case, a carpenter had suffered amputation of his left arm from the elbow. The Supreme Court held that this amounted to a total disability as the injury was of such a nature that the claimant had been disabled from all work which he was capable of performing at the time of the accident. In the light of the above facts and the legal position urged before the Hon'ble Supreme Court, the Supreme Court held as follows:

**'In our view, the ratio of the said judgment is squarely applicable to the facts at hand. We are of the opinion that on account of amputation of his right leg below knee, he is rendered unfit for the work of a driver, which he was performing at the time of the accident resulting in the said disablement. Therefore, he has lost 100% of his earning capacity as a lorry driver, more so, when he is disqualified from even getting a driving licence under the Motor Vehicles Act.'**

In ***New India Assurance Company Ltd., Secunderabad v. Abdul Khader***

***Jilani @ Jilani and another***<sup>[3]</sup>, a Division Bench of this Court clarified that the Court's discretion is not controlled by the entries contained in Parts 1 and II of Schedule I. Further, in the decision in ***N. Sree Ramulu and others v.***

***B. Lakshmi Narayana (died) and others***<sup>[4]</sup> this Court had considered the

following question: "Having regard to the nature of the injury suffered by the claimants in these cases, whether the Commissioner for Workmen's Compensation erred in not holding that the claimants should be deemed to have suffered "total disablement" as defined in Section [2\(1\)\(l\)](#) of the Act and award compensation to them on the said basis?" While answering the said question this Court had considered the provisions of law and also the decisions of the Supreme Court and had culled out the following principles:

**25. The following principles can be culled out from the above decisions of the Supreme Court and this Court:**

**(a) All injuries or permanent disabilities arising from injuries do not result in loss of earning capacity.**

**(b) Where permanent partial disablement results from an injury and the said injury is specified in Schedule I, it would be covered by Section [4\(1\)\(c\)\(i\)](#) of the Act. In such a case, the workman would be entitled to such percentage of compensation which would have been payable in the case of permanent total disablement as is specified therein as being the percentage of the loss of earning capacity caused by that injury;**

**(c) Where permanent partial disablement results from an injury and the injury is not specified in Schedule I, it would be covered by Section [4\(1\)\(c\)\(ii\)](#) of the Act. In such a case, the workman would be entitled to such percentage of compensation which would have been payable in the case of permanent total disablement as is proportionate to the loss of earning capacity (as assessed by the qualified medical practitioner) permanently caused by the injury.**

**(d) In assessing loss of earning capacity in a case of permanent partial disablement resulting from an injury not specified in the Schedule I, the qualified medical practitioner shall have due regard to the percentages of loss of earning capacity in relation to different injuries specified in Schedule I.**

**(e) The opinion of the medical practitioner as to the percentage of loss of earning capacity would be normally binding on the court where permanent partial disablement results from an injury not specified in Schedule I.**

**(f) The importance of medical evidence is only in case where disablement in performing duties which the workman was performing earlier cannot be decided without the aid of medical evidence. In case where it can be so decided with or without medical evidence (like amputation of limbs), medical evidence is not relevant and the question of the victim not suffering specified**

injuries is also not relevant.

(g) Loss of earning capacity is not a substitute for percentage of physical disablement and is only one of the factors taken into account.

(h) The loss of earning capacity arising from a permanent disability may be different from the percentage of permanent disability. Equating the percentage of loss of earning capacity to the percentage of permanent disability would result in the award of either too low or too high a compensation. What requires to be assessed is the effect of permanent disability on the earning capacity of the injured. This involves ascertainment of what activities the claimant can carry on in spite of permanent disability and what he could not do as a result of the permanent disability; ascertainment of his avocation, profession and nature of work before the accident and also his age; and finding out whether he is totally disabled from earning any kind of livelihood (or) whether in spite of permanent disability, he can still effectively carry on the activities and functions, which he was earlier carrying on (or) whether he was prevented or restricted from discharging his previous activities and functions, but could carry on some other or lesser scale of activities and functions so that he continues to earn or can continue to earn his livelihood. In para. 14 of Raj Kumar (17 supra) and in para. 8 of Mohan Soni (25 supra) appropriate guidance is available.

(i) The doctor who treated an injured claimant or who examined him subsequently to assess the extent of his permanent disability can give evidence only in regard to the extent of permanent disability. The loss of earning capacity is something that will have to be assessed by the Commissioner/Court with reference to the evidence in entirety.

(j) Where a claimant is a workman who suffered injuries in an accident and his employer either provides for pension after retiring the workman on the grounds of medical invalidation or the dependants of the claimant are given appointment on compassionate grounds, he has a duty to disclose these facts and they would have a material bearing on the ascertainment of the percentage of loss of earning capacity.

(k) It is a question of fact in each case whether there is permanent total disablement on account of the injuries suffered by the claimant. In a given case, the loss of earning capacity caused by an injury can amount to 100% disablement. But, if the injured claimant is in a position to earn a living by doing a job other than the one which he was doing at the time of his accident, he cannot be said to have suffered 100% disability.

**(l) Any scaling down of the compensation should require something more tangible than a hypothetical conjecture that notwithstanding the disability, the victim could make up for the loss of income by changing his vocation or by adopting another means of livelihood. The party advocating for a lower amount of compensation for that reason must plead and show before the Tribunal that the victim enjoyed some legal protection (as in the case of persons covered by the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995) or in case of the vast multitude who earn their livelihood in the unorganized sector by leading cogent evidence that the victim had in fact changed his vocation or the means of his livelihood and by virtue of such change he was deriving a certain income.**

Further, in this cited decision, while deciding the claim in CMA no. 2197 of 2003 keeping in view the above principles of law, this Court had noted that the applicant in that case had suffered fracture of both bones of left leg above knee and that amputation was done for the right thigh and that fixation was done for fracture of left leg and that the applicant was not fit to drive a vehicle and had then proceeded to hold that the loss of earning capacity was 100% and that the Commissioner had erred in granting the compensation on the basis that the loss earning capacity of the claimant was 80%. The law is thus well settled that the loss of earning capacity arising from a permanent disability may be different from the percentage of permanent disability; and, if the percentage of permanent disability is to be taken as the percentage of loss of earning capacity it may result in award of either too low or too high a compensation as the Supreme Court in Raj Kumar's case has pointed out that the same permanent disability may result in different percentages of loss of earning capacity in different persons depending on the nature of profession, occupation or job, age, education and other factors. In view of the settled legal position, the contention of the second opposite party that the percentage of loss of earning capacity was wrongly determined by the learned Commissioner at 45% cannot be countenanced. Viewed thus, this Court finds that the two contentions of the learned counsel for the appellant that the driving license of the applicant was renewed twice and that the evidence of a doctor who did not treat the applicant ought not to have been

relied upon by the learned Commissioner, are devoid of merit. Accordingly, this Court finds that the learned Commissioner was perfectly justified in determining the compensation after fixing the loss of earning capacity at 45% and that there are no grounds calling for interference with the quantum of compensation determined.

9. Insofar as the interest and the rate of interest awarded on the compensation amount by the learned Commissioner, the learned counsel for the second opposite party would contend that the applicant is entitled to interest only from the date of the order of the Commissioner and that the interest awarded at 12% per annum is high and excessive. He had placed reliance on Section 4 of the Act, which deals with the penalty and also on the decision of the Apex Court in **National Insurance Company Limited Vs. Mubasir Ahmed**<sup>[5]</sup> and **UPSRTC now Uttarakhand Transport Corporation Vs. Satnam Singh**<sup>[6]</sup> and **Oriental Insurance Company Limited v. Mohd. Nasir and another** [2009 (6) SCC 280] in support of his contention that the second opposite party cannot be fastened with any liability to pay the interest. On the other hand, the learned counsel for the applicant while submitting that the interest granted by the learned Commissioner is just and proper and that it is in accordance with law had placed reliance on a decision in **The Oriental Insurance Company Ltd., v. Siby George and others**<sup>[7]</sup>.

9.1 Section 4A of the Workmen's Compensation Act, which deals with 'compensation to be paid, when due and penalty for default' reads as under:

4-A: Compensation to be paid, when due and penalty for default:

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(1) compensation under Section 4 shall be paid as soon as it falls due.

(2) xxx

(3) Where any employer is in default in paying the compensation due under this Act within one month from the date it fell due, the Commissioner shall

(a) direct that the employer shall, in addition to the amount of the arrears, pay simple interest thereon at the rate of twelve per cent per annum or at such higher rate not exceeding the maximum of the lending rates of any scheduled bank as may be specified by the Central Government, by notification in the

Official Gazette on the amount due; and  
(b) if, in his opinion, there is no justification for the delay, direct that the employer shall, in addition to the amount of the arrears and interest thereon, pay a further sum not exceeding fifty per cent of such amount by way of penalty:  
Provided that an order for the payment of penalty shall not be passed under Clause (b) without giving a reasonable opportunity to the employer to show cause why it should not be passed.”

Under the said provision, the Commissioner is empowered to direct that the employer shall in addition to the arrears pay 12% per annum or at such higher rate not exceeding the maximum of the lending rates of any scheduled bank as may be specified by the Central Government, by notification in the Official Gazette, on the amount due.

**9.2** The decision in *Satnam Singh* (6 supra) was rendered following the decision in *Mubasir Ahmed* (5 supra). Further, in the decision in *Siby George* (7 supra), the Hon’ble Supreme Court considered the following question: ‘When does the payment of compensation under the WC Act, 1923 become due and consequently what is the point in time from which interest would be payable on the amount of compensation as provided under Section 4(a)(3) of the Act?’ The Hon’ble Supreme Court having considered the legal position and the ratios in the precedents had held as under: **“The decisions in Pratap Narain Singh Deo was by a four Judge Bench and in Valsala by a three Judge Bench of this Court. Both the decisions were, thus, fully binding on the Court in Mubasir Ahmed and Mohd.Nasir, each of which was heard by two judges. But, the earlier decisions in Pratap Narain Singh Deo and Valsala were not brought to the notice of the Court in the two latter decisions in Mubasir Ahmed and Mohd. Nasir. In the light of the decisions in Pratap Narain Singh Deo and Valsala, 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 do not express the correct view and do not make binding precedents.”** Therefore, in view of the settled legal position, the order of the learned Commissioner awarding

interest at 12% per annum from 19.05.2008 till the date of realisation cannot be said to be not in accordance with law. Therefore, the findings in regard to award of interest in the impugned order of the learned Commissioner must be held to be correct in view of the latest judgment of the Apex Court in ***Siby George***'s case (7 supra), which was followed by the learned Commissioner.

**10.** In view of the above discussion and for the foregoing reasons, this Court finds that the appeal lacks merit and is liable to be dismissed. Accordingly, the appeal is dismissed. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this appeal shall stand dismissed.

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**M. Seetharama Murti, J**

26<sup>th</sup> August, 2015  
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- [\[1\]](#) 2011 ACJ Page 1
  - [\[2\]](#) 2010 ACJ 497
  - [\[3\]](#) 2007(4) ALT 607 (DB)
  - [\[4\]](#) 2013 (5) ALD 249
  - [\[5\]](#) 2007 ACJ 845 (SC)
  - [\[6\]](#) 2012 ACJ 691
  - [\[7\]](#) 2012 ACJ 2126