

AFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Misc. Appeal (C) No.333 of 2016**

- Prem Chand Sahu S/o Shri Hinichha Ram Sahu, Aged About 26 Years R/o Village Tulsi, Post Newra, Civil And Revenue District- Raipur, Chhattisgarh(Claimant)

---- Appellant**Versus**

1. Ripusudan Verma S/o Shri Rikhi Ram Verma, R/o Village- Suhela, P.S. Suhela, Civil And Revenue Distt. Raipur, Chhattisgarh
2. M/s Centuri Cement Factory, Baikunth, Village And Post Baikunth Tahsil- Tilda, Raipur, Civil And Revenue Distt. Raipur, Chhattisgarh, Through The Manager
3. The New India Assurance Co. Ltd., Divisional Office, Jail Road, Raipur, Tahsil And Distt. Raipur, Chhattisgarh, Through The Branch Manager(Non-Applicants)

---- Respondents

For appellant : Ms. Sareena Khan, Advocate.
 For respondent No.2 : Shri Ashish Shrivastava, Advocate.
 For respondent No.3 : Shri Sourabh Sharma, Advocate
 None for respondent No.1 though represented.

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****25.11.2016**

Heard.

2. The appellant has filed the instant appeal under Section 30 of the Employees' Compensation Act, 1923 (for short 'the Act of 1923) as the Court below in the impugned judgment dated 24.1.2015 has not granted interest to the appellant/applicant.

3. The appeal is admitted for hearing on the following substantial question of law:

“Whether the Tribunal has erred in law in not awarding any interest on the awarded amount to the appellant?”

4. Learned counsel for the appellant would submit that as per the provisions of Section 4-A(3)(a), the interest 12% per annum or at such higher rate not exceeding the maximum of the lending rates of any scheduled bank has to be granted. The Court below erred in law by not granting interest of the compensation, hence the instant appeal may be allowed and this Court may direct the Court below for awarding the interest payable as per law?

5. Learned counsel draws attention of this Court for the case law **AIR 1976 SC 222, Pratap Narain Singh Deo vs. Shrinivas Sabata and another** wherein Four Judges Bench of the Apex Court has held that the employer became liable to pay the compensation as soon as personal injury was caused to the workman by the accident which arose out of and in the course of the employment. Thus, the relevant date for determination of the rate of compensation is the date of accident and not the date of adjudication of the claim.

6. Learned counsel for the appellant would pray that in the light of said judgment of the Hon'ble Apex Court, the interest may be given from the date of accident i.e. 16.12.2006 till deposit of the compensation vide judgment dated 24.11.2015.

7. Learned counsel for respondent No.3 supported the judgment passed by the Tribunal.

8. Perused the provisions of Section 4-A(3)(a) of the Act, 1923 which is reproduced as under:

“4-A Compensation to be paid when due and penalty for default.

XXXX

XXXX

XXXX

(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.”

9. A perusal of the mandatory provisions of law, the Tribunal i.e. the Court below is required to grant simple interest @ 12% per annum or at such higher rate not exceeding maximum of lending rates of any scheduled bank. In the present matter, the Court below has not awarded any interest and also not shown any reason for not awarding the interest as the same is mandatory from the statutory provision.

10. A perusal of the cited case law, the Hon'ble Apex Court has held that compensation has to be determined from the date of accident and not from the date of adjudication of the claim. With the above provisions of law, in the light of the judgment of the Apex Court, this Court is of the considered view that interest has to be awarded from the date of incident i.e. from 16.12.2006 @ 12% per annum till the deposit of the compensation.

11. Consequently, the instant appeal is allowed. Judgment passed by the Court below is modified that in addition to the compensation granted to the appellant/claimant, respondent No.3 shall pay interest @ 12% per annum from the date of accident, i.e. 16.12.2006 till the date of deposit of the compensation amount before the Tribunal.

12. The appellant may file a copy of the order before the concerned Tribunal for compliance.

13. Registrar (Judl.) is also directed to send a copy of the order to the concerned Tribunal through usual and fax mode.

14. The appeal is allowed to the above extend.

**Sd/-
(Chandra Bhushan Bajpai)
JUDGE**