

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

FIRST APPEAL NO. 232 OF 2000

1. Smt. Julekhab Abdul Samad
Died through L.Rs.
- 1a. Shaikh Raisabi Abdul Samad,
Age 35 years, Occu. Household,
R/o. Sangamner, Tq. Sangamner,
Dist. Ahmednagar.

**....Appellant.
(Ori. Petitioner)**

Versus

1. Mustakhan Bashirkhan Pathan,
Age major, Occu. Business,
R/o. Naikwadpura, Sangamner,
District Ahmednagar.
2. The Branch Manager,
United India Insurance Co. Ltd.,
Hotel Karam Building,
Opposite S.T. Stand, Sangamner,
District Ahmednagar.

**....Respondents.
(Ori. Respondents)**

Mr. V.S. Bedre, Advocate for appellant.

Mr. U.S. Malte, Advocate for respondent No. 1.

Mr. A.B. Gatne, Advocate for respondent No. 2.

CORAM : T.V. NALAWADE, J.
DATED : 14th January, 2016.

JUDGMENT :

1) The appeal is filed against the judgment and award of the Commissioner appointed under the Workmen's Compensation Act, Labour Court, Ahmednagar. It is on the ground that penalty is not imposed on the employer and the

interest at the rate of 12% p.a. is not given. Heard both the sides.

2) So far as the interest rate is concerned, the amendment was made to enhance interest rate in the year 1995 and the incident in the present matter took place in the year 1993 and so, there is no possibility of interference in the rate of interest awarded by the Commissioner.

3) So far as the point of penalty is concerned, the last portion of operative order shows that the Commissioner has issued show cause notice to respondent No. 1, employer asking him as to why 50% amount of compensation should not be recovered by way of penalty. This Court is avoiding to discuss some reasoning given in para No. 19. In any case, the Commissioner has to decide the liability with regard to penalty and he wants to make inquiry in respect of the liability of the employer to make payment of penalty amount. As this point was kept open and it is still open, inquiry needs to be held in that regard and then the Commissioner can make order. There will be liberty to the appellant to come to this Court again after the decision given by the Commissioner on that point. In those terms, the appeal is disposed of. The Commissioner is expected

to dispose of the matter within one year from the date of receipt of the record.

[T.V. NALAWADE, J.]

ssc/