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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision: July 29, 2016

\+ MAC.APP. 579/2016 & C.M. 27047-48/2018

NATIONAL INSURANCE CO LTD. ..... Appellant
Through: Mr. C.S. Parashar, Advocate

versus

BISHAMBAR SINGH & ORS. .... Respondents
Through: Nemo.

CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR

ORDER
ORAL

1. The impugned judgment of 11th May, 2016 grants compensation of ₹12,31,000/- to the respondents-claimants on account of a fatal accident. The income of the deceased has been taken to be ₹16,000/- p.m. in the impugned judgment. The appellant is the insurer company, who challenges the impugned judgment on the ground that the employment certificate of 10th August, 2012 is fake and so trial court has errenously relied upon it.

2. Attention of this Court is drawn by learned counsel for appellant to the deposition of PW-1 to submit that father of the deceased had categorically stated that he was not in possession of any appointment letter of the deceased. It was also submitted that the employer (PW-2) in his evidence was unable to produce the income tax documents to show if

any salary was paid to the deceased nor any appointment letter has been produced by the employer and so on the basis of fake employment certificate grant of compensation to respondents-claimants is bad in law and thus it is urged that the impugned judgment deserves to be set aside.

3. It is pointed out by learned counsel for appellant that vide various orders (Annexure 4 colly), the trial court had directed that the interest for the period of delay from 18th July, 2014 till 11th November, 2015 will not be granted to the respondents-claimants in the event of their succeeding in the claim petition. It is pointed out that the impugned Award in contravention of the interim orders *(Annexure-4 colly)* as it grants interest for the entire period from the date of filing of claim petition, till realization. Lastly, it is submitted that the rate of interest of 12% p.a. is quite exorbitant and reasonable interest @ 9% p.a. ought to awarded.

4. Upon hearing and on perusal of impugned order and the material on record, I find that merely because the witness has not brought income tax documents or had not brought the appointment letter of the deceased, would not justify an inference that the employment certificate of 10th August, 2012 was fake. If appellant was keen to take the plea of employment certificate being fake then the appellant ought to have insisted upon the witness – PW-2 to produce the tax records or to have asked the witness as to whether he can produce it or not. On the similar reasoning, the non bringing of appointment letter would not justify in raising the inference of employment certificate being fake.

5. Section 30 of *The Employees' Compensation Act, 1923* mandates that no appeal shall lie against an order like the instant one unless a

substantial question of law is raised. Although interim orders of trial court indicate that respondent-claimant would not be entitled for the interest for period of delay, but this by itself does not raise any substantial question of law. Considering the inflation aspect, grant of interest for the delay period can be overlooked. Even the rate of interest granted does not appear to be unreasonable as it is not shown as to how the rate of interest awarded is unjustified.

6. In the considered opinion of this Court, no substantial question of law is raised by the Insurer in this appeal. This appeal and the applications are accordingly dismissed.

(SUNIL GAUR)
JUDGE

JULY 29, 2016
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