

AFR

**HIGH COURT OF CHHATTISGARH AT BILASPUR**

**MISC. APPEAL (C) NO. 65 OF 2009**

1. Smt. Sukhvinder Kaur, W/o Late Shri Manjeet Singh, aged about 35 years, R/o Indrapuri, Bilaspur (C.G.), present address: Station Para, near Over Bridge, Bilaspur.
2. Amandeep Singh, S/o Late Shri Manjeet Singh, aged about 6 years
3. Tarandeep Singh, S/o Late Shri Manjeet Singh, aged about 8 years,  
Both minor through its natural guardian mother Smt. Sukhvinder Kaur.

**... Appellants**

**Versus**

1. The Manager, Sai Prasad Gas Godown, Bhartiya Nagar, Vyapar Vihar, Thana- Tarbahar, Bilaspur (C.G.)
2. The New India Insurance Company Limited, through its Branch Manager, Bus Stand, Bilaspur (C.G.)

**... Respondents**

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| For Appellants      | : | Mr. Anand Shukla, Advocate.    |
| For Respondent No.1 | : | Mr. O.P. Agrawal, Advocate.    |
| For Respondent No.2 | : | Mr. Shivendu Pandya, Advocate. |

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**Hon'ble Shri Justice P. Sam Koshy**

**Order on Board**

**14/09/2017**

1. With the consent of learned Counsel for the parties the appeal was heard finally.
2. The present is an appeal under Section 30 of the Workmen's Compensation Act filed by the Claimants assailing the award dated 3.10.2008 passed by the Commissioner, Workmen's Compensation-cum-Labour Court, Bilaspur, in Case No. 412/W.C.A./COC-I-B/04(Fatal)Claim.
3. Vide the said impugned award, the Commissioner has allowed the claim application of the Appellants-Claimants and has awarded a compensation of an amount of Rs.1,89,560/- to be paid within a period of 45 days failing which the same shall carry interest.
4. In this appeal, the following substantial questions of law are involved:

(i) Whether the Commissioner was justified in denying the interest from the date of accident as is envisaged under Section 4A of the Workmen's Compensation Act?

(ii) Whether the Commissioner has rightly assessed the monthly income of the deceased while quantifying the compensation?

**5.** Grievance of the Claimants is that the Commissioner has not taken into account the salary of the deceased-Manjeet Singh properly while quantifying the compensation. Likewise, the Commissioner has also failed to provide the interest on the awarded amount from the date of accident which the Claimants are otherwise entitled for in view of the provisions of Section 4A of the Workmen's Compensation Act.

**6.** Learned Counsel for the Appellants-Claimants submits that the deceased-Manjeet Singh was aged around 38 years and was working as a driver under the Respondent No.1-Establishment when he died an accidental death on 29.10.2002. Respondent No.1 had duly insured the workers engaged by them under the Workmen's Compensation policy. According to him, once when the accident was admitted by the employer and the insurance company, the compensation ought to have been deposited within 30 days from the date of accident failing which the amount would automatically carry interest. This aspect has not been considered by the Commissioner while awarding the compensation and has only awarded interest in the event of failure in depositing the compensation amount within 45 days from the date of award. This, according to the Appellants-Claimants, is erroneous finding on the part of the Commissioner.

**7.** Learned Counsel for the Appellants-Claimants further submits that it was a categorical statement before the Commissioner that the deceased-Manjeet Singh at the relevant point of time was earning Rs.2000/- a month

and was also earning Rs.100/- as daily allowance, in addition to his monthly wage. He submits that the Commissioner for reason best known has taken the salary at Rs.1500/- and has also reduced the daily allowance to Rs.50/- which again is unreasonably low for the purpose of quantifying the compensation and thus prays that the same be suitably modified and the awarded amount be enhanced.

**8.** Learned Counsel for Respondent No.1-Establishment as well as learned Counsel for Respondent No.2-Insurance Company opposing the appeal submit that the award passed by the Commissioner is just and reasonable and does not warrant any interference. In addition, the appeal does not have any substantial question of law worth allowing the appeal and the same therefore deserves to be rejected.

**9.** Having heard the contentions put forth on either side and on perusal of the record, what clearly strikes in the mind of this Court is the fact that in the instant case the accident occurred in October, 2002. The Claimants themselves had very fairly claimed that the deceased-Manjeet singh was drawing a salary of Rs.2000/- a month which under no stretch of imagination could be said to be on the higher side in the year 2002 for the reason that Rs.2000/- a month means that the worker was getting approximately Rs.65/- a day. Thus, this Court is of the opinion assessing of his monthly salary at Rs.1500/- by the Commissioner does not seem to be justified and it is ordered that for the purpose of quantifying the compensation the monthly wages ought to had been taken at Rs.2000/-. Further, if we accept the daily allowance at Rs.50/- as has been assessed by the Commissioner but has been awarded it only for 10 days whereas the undisputed fact is that the deceased was working as a driver under the Respondent No.1-Establishment a gas agency where the deceased had to take gas cylinders on the vehicle of Respondent No.1-Establishment at the

door-step of all the consumers and the work was available for all 26 days of the month which means that he was getting a daily allowance of Rs.1300/- for this 26 days. Thus, the total monthly income of the deceased would be Rs.3300/- instead of Rs.2000/- as assessed by the Commissioner.

**10.** If we calculate the compensation payable to the claimants assessing Rs.3300/- as his monthly wages, the compensation would be 50% of his monthly wage, i.e., Rs.1650/- which after multiplying with the factor for the age of 38 years, which is 189.56, reaches to Rs. 3,12,774/-. Thus, it is ordered that the claimants shall be entitled for a compensation of Rs. 3,12,774/- instead of Rs.1,89,560/-.

**11.** Further, as per Section 4A of the Workmen's Compensation Act in the event of non-depositing of the compensation due to the claimants within 30 days from the date of death of the employee, the employer is liable to pay interest on the amount of compensation. The rate of interest also as fixed by the Act itself, is 12%. In the instant case, the Commissioner has not given any reason as to why the claimants shall not be entitled for interest from the date of accident. Accordingly, it is ordered that the claimants shall also be entitled for the interest at the rate of 12% from the date of accident as per Section 4A of the Workmen's Compensation Act.

**12.** The Workmen's Compensation Act is a social security legislation. The object of enactment of the said Act was to provide speedy, cheaper and efficient mechanism in determining the payment of compensation due to an injured or family members of the deceased. This being the reason, sub-section 4A was required to be enacted by amendment made in the year 1959, holding that the compensation under Section 4 shall be paid as

soon as it falls due and the second part of the Section deals with in the event of the payment not being made by the employer promptly.

**13.** The Hon'ble Supreme Court in the case of **Ved Prakash Vs. Premi Devi, 1997 (8) SCS 1**, dealing with the issue of payment of interest under Section 4A (3)(a) has held that so far as interest under this provision is concerned, it is almost automatic, once default in payment of compensation is committed by an employer beyond permissible limit of one month, the amount payable would automatically attract interest and the Commissioner shall have to pass an order granting interest in such circumstances.

**14.** In the instant case, the Commissioner while awarding the compensation has awarded the interest only in the event of failure in depositing the compensation amount within 45 days from the date of award, whereas sub section-3 of Section 4A requires the Commissioner to direct the employer to pay interest from the date the amount fell due which would be the date of accident and not the date of judgment. The Hon'ble Supreme Court as early as in the case of **Pratap Narayan Singh Deo Vs. Srinivas Sabata, 1976 (1) SCC 289**, held that the compensation becomes payable on the date of accident and not on the date of determination of amount by the Commissioner. Again, the Hon'ble Supreme Court in case of **Oriental Insurance Co. Ltd. Vs. Khajuni Devi, 2002 (10) SCC 567**, while dealing with the issue of relevant date from which the interest and penalty would be payable, has held that the relevant date for determining the rights and liability of parties is concerned, is the date of accident and not the date of adjudication of the claim. Similar was the view of the Hon'ble Supreme Court in one of its earlier decision in **Kerala SEB Vs. Valsala K, 1999 (8) SCS 254**.

**15.** In view of the same, the appeal stands allowed. The claimants shall be entitled for an additional compensation of Rs. 1,23,214/- and the total amount of compensation i.e. Rs.3,12,774/- shall carry interest at the rate of 12% from the date of accident till the actual payment is made.

Sd/-  
**(P. Sam Koshy)**  
Judge

/sharad/