

NAFR

HIGH COURT of CHHATTISGARH, BILASPUR**MAC No. 1390 of 2017**

1. Smt. Premlata Sharma Widow of Late Lalit Kumar Sharma Aged About 44 Years
2. Minor Neha Sharma D/o Late Lalit Kumar Sharma Aged About 17 Years
3. Minor, Abhishek Sharma S/o Late Lalit Kumar Sharma Aged About 15 Years
4. Smt. Sukrita Bai Widow of Late Narmada Prasad Sharma Aged About 65 Years

Appellants No.2&3 are Minors through their natural Guardian- Mother
 Appellant No. 1, Smt. Premlata Sharma, Aged About 44 Years, Widow
 Of Late Lalit Kumar Sharma,
 All are R/o Village Kabeer Stambh Gully, Kashinagar, Korba, Tahsil
 And District Korba, Chhattisgarh.

---- Appellants**Versus**

1. Bhisma Dev Dewangan S/o Shri Radheshyam Dewangan R/o Qtr. No. B, Type/73, Balgi Colony, Tahsil- Katghora, District Korba, Chhattisgarh.
2. National Insurance Company Limited, Through The Branch Manager, National Insurance Company Limited, Branch Office- Meenu Complex, Kosabadi, Korba, District Korba, Chhattisgarh.

---- Respondents

For Appellants	:	Ms. Nandkumari Kashyap, Advocate.
For respondent No.2	:	Shri Dashrath Gupta, Advocate.

SB: Hon'ble Shri Justice P. Sam Koshy
Order On Board

28.11.2017

1. The present appeal under Section 30 of the Employees Compensation Act, 1923 (in short, the Act, 1923) has been filed against the award dated 21.11.2016 passed by the Commissioner for Workmen Compensation, Labour Court, Korba, in case No.22/E.C. Act/2014/Fatal. Vide the said impugned award, the Commissioner has awarded compensation of Rs.6,12,360/-. While passing the said award, the Commissioner has not awarded any interest though there

is default interest awarded if the amount is not deposited within 30 days from the date of award.

2. The present appeal was admitted for hearing by this court on 11.10.2017 on the following substantial question of law :

“Whether the court below was justified in not granting interest on the awarded amount as is required under Section 4-A of the Employees Compensation Act.”

3. The issue involved in the instant case is whether while passing the award, the Commissioner ought to have considered the case of the claimants for granting interest as is envisaged under Section 4-A of the Act, 1923?. For ready reference, it would be relevant to refer sub section 3 of Section 4-A of the Act, 1923, which reads as under:

“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 percent 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;

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4. The said statutory provision clearly envisages that in the event of their being default of payment of compensation due, under the Act, within one month from the date it fell due, the amount shall automatically carry interest @ 12 percent per annum.
5. In the instant case indisputably the accident occurred on 11.04.2013 and the amount fell due within 30 days from the date of accident i.e. by 11.05.2013. Since, the amount has not been deposited by the employer or insurer by 11.05.2013, the provisions of Section 4-A of the Act, 1923, would automatically come into play and the claimants shall

be entitled for interest on the awarded amount in accordance with the said provision. In the present case though the Commissioner has awarded default on the said amount against the employer, but has not awarded any interest on the said awarded amount. This, in the opinion of this court is not in accordance with provisions of law.

6. 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, expecting 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.
7. The Hon'ble Supreme Court in the case of Ved Prakash Vs. Premi Devi, 1997 (8) SCC 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.
8. In the instant case, the Commissioner while awarding the compensation has awarded the default interest only in the event of failure in depositing the compensation amount within 30 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) SCC 254.

9. In view of the aforesaid, this court is of the opinion that the claimants in the instant case shall also be entitled for interest on the said awarded amount from the date of accident till the actual payment is made, and in view of sub-section 3 of Section 4-A of the Act, 1923, this court quantifies the interest @ 12 percent as stated in the Act.
10. Accordingly, the appeal stands allowed and disposed of.
11. It is made clear that the liability of payment of interest part shall be upon the insurance company and the liability of payment of default as decided by the Commissioner shall rest upon the employer.

Sd/-

(P. Sam Koshy)
Judge