

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Misc. Appeal (C) No. 317 of 2017**

Husmuddin S/o Shri Shamsuddin aged about 75 Years Driver- Bilaspur Depot (Sub Depot- Mungeli) R/o Yadunandan Nagar, Bilaspur, District Bilaspur, Chhattisgarh.

---- Appellant**Versus**

1. Chhattisgarh Infrastructure Development Corporation through Divisional Manager (Parivahan Prabhadh) Old Bus Stand, Bilaspur, Chhattisgarh.
2. Chhattisgarh Infrastructure Development Corporation through- Managing Director Shastri Chowk, Raipur District Raipur, Chhattisgarh.

---- Respondent

For Appellant	:	Shri K.P.S Gandhi, Advocate
For Respondents	:	Shri Basant Devangan

Hon'ble Shri Justice P. Sam Koshy**Order On Board****20/07/2017**

The present is an appeal under Section 30 of the Employee's Compensation Act, assailing the award dated 25.10.2016 passed in Case no. 19/EC Act/2014 (NF) decided by the Commissioner for Employees Compensation Act/ Labour Court, Bilaspur.

2. The appellant herein met with an accident on 14.07.1997 while he was driving the bus bearing registration no. 7629 belonging to the erstwhile M.P.S.R.T.C. As a result of the said accident, the appellant suffered grievous injuries and 30 per cent permanent disability as assessed by the Medical Board. The claimant had filed a claim application before the Labour Court seeking for penalty and interest.

3. The Commissioner considering the entire facts and circumstances of the case, vide impugned award dated 25.10.2016 allowed the application and quantified the compensation at Rs. 1,15,130/-.

4. It is this award which has been challenged by the appellant in the present appeal.

5. With the consent of the counsel appearing for the parties, the appeal is being disposed of finally on the following substantial question of law:

“Whether the Court below that is the Commissioner for Employee's Compensation Act, Bilaspur was justified in not granting interest and penalty to the appellant in the factual matrix of the case.”

6. Counsel for the appellant submits that the provisions of Employee's Compensation Act, particularly Section 4A specifically deals with the provisions of grant of penalty and interest. In the instant case, it was the responsibility of the respondents to have immediately paid the compensation to the employee on his sustaining the injuries and having not done so and on the contrary contesting the case, there has been a considerable delay in payment of compensation which the appellant till date has not received in spite of the fact that the accident arose almost 2 decades ago i.e. 14.07.1997. Therefore, the appellant shall be entitled for the penalty as well as interest.

7. Per contra, counsel for the respondents Corporation, however, opposing the appeal submits that the appeal first of all is not maintainable on the ground that it is an appeal claiming for interest and penalty and same may not be entertained under the provisions of Section 30 of the Employee's Compensation Act. Likewise, it is also contended by the counsel for the respondents that Chhattisgarh Infrastructure Development Corporation was born only after creation of the State of Chhattisgarh whereas the accident in the instant case arose under the erstwhile State of Madhya Pradesh where the appellant was an employee, therefore, the respondents cannot be saddled with the responsibility of payment of penalty and interest.

8. Having heard the rival contentions put forth on either side and on perusal of the record, the fact which is undisputed is that the accident took place on 14.07.1997 as a result of the accident, the appellant sustained grievous injuries and 30% permanent disability. The other undisputed fact is that the appellant was an employee of erstwhile M.P.S.R.T.C when the accident arose and in all

probability, the appellant must have retired working under the said Corporation. The other aspect which also is not disputed by the respondents is that the entire assets and liabilities of the MPSRTC so far as it was in the territory of Chhattisgarh was taken over by the respondent Corporation i.e. Chhattisgarh Infrastructure Development Corporation. Therefore, the liability of any dues payable from any of the litigants which was pending in Chhattisgarh fell upon the respondent Corporation. At this juncture it would be relevant to refer to Sub-section 3 of Section 4A of the Employee's Compensation Act which for ready reference is being reproduced hereinunder:

“(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;

(b) if, in his opinion, there is no justification for the delay, direct that the employer shall, in addition to the amount of the arrears and interest thereon, pay a further sum not exceeding fifty per cent of such amount by way of penalty.”

9. A plain perusal of the aforesaid provision clearly stipulates that in the event if there is a default in paying the compensation, the employer shall itself as mandatory course will be liable to pay interest on the amount of compensation payable to the injured. The rate of interest has also been quantified in the said provision. What is also striking the conscious of this Court is that the accident in the present case arose on 14.07.1997 and till date in spite of 20 years having passed, the appellant has not received any amount of compensation and the respondents have been contesting the case. In view of the fact that the appellant has been denied the compensation that he was duly entitled for about 20 years back itself is a sufficient strong ground for imposition of interest on the awarded

amount. Non-granting of interest by the Labour Court therefore seems to be improper and unjustified.

10. In view of the same, this Court is of the opinion that ends of justice would meet if the impugned award is modified to the extent holding that the appellant shall be entitled for interest @ 12% from the date of application made before the Labour Court.

11. So far as the penalty part is concerned, since the appellant admittedly was an employee of MPSRTC and must have retired working under the erstwhile MPSRTC, it would not be proper saddling the liability of payment of penalty part upon the respondents Corporation. Thus, the claim for penalty part stands rejected.

12. So far as the objection regarding the maintainability of the appeal is concerned, the same stands rejected on the ground that Sub-section 1 of Section 30 of the Employee's Compensation Act clearly reflects that an appeal shall be maintainable before the High Court in the event of disallowing the claim in full or in part or lump sum. The claim of the appellant at the beginning itself was for payment of compensation with interest and penalty. The disallowing of interest and penalty therefore would fall under Sub-section 1 (a) of Section 30 of the Employee's Compensation Act and therefore the appeal would be maintainable.

13. In the result, the present appeal stands partly allowed to the extent that the appellant shall be entitled for interest on the awarded amount as stated in the preceding paragraph.

Sd/-
(P. Sam Koshy)
JUDGE