

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 1647 of 2016**

1. Vishvanath Kashyap S/o Shri Manaku Ram, Aged About 24 Years Caste Muriya, R/o Village- Choyakapara, Tahsil- Dantewada, Civil & Revenue District- South Baster Dantewada, Chhattisgarh
2. Ku. Chanchal Kashyap D/o Shri Vishvanath Kashyap, Aged About 3 Years Caste- Muriya, Minor Through Her Legal Guardian Father Shri Vishvanath Kashyap, R/o Village- Choyakapara, Tahsil- Dantewada, Civil & Revenue District- South Baster Dantewada, Chhattisgarh
3. Manku Ram Kashyap S/o Late Shri Bodda, Aged About 60 Years Caste- Muriya, R/o Village- Choyakapara, Tahsil- Dantewada, Civil & Revenue District- South Baster Dantewada, Chhattisgarh
4. Smt. Manaki Bai W/o Shri Manaku Ram, Aged About 50 Years Caste Muriya, R/o Village- Choyakapara, Tahsil- Dantewada, Civil & Revenue District- South Baster Dantewada, Chhattisgarh(Claimants)

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1. Khemeshwar Nag S/o Late Shri Somnath, Aged About 37 Years R/o Village- Taraibhatapara, Bandaji, Dantewada, Chhattisgarh, At Present R/o Harampara, Geedam, P.S. & Tahsil- Geedam, Civil & Revenue District South Baster Dantewada, Chhattisgarh(Driver Of Offending Vehicle Motor Cycle No. C.G. 17 - K 3792)
2. Jadu Ram Kashyap S/o Late Shri Kamlu Ram Kashyap, Aged About 48 Years R/o Village- Chandgaon, Kumali, Civil & Revenue District Baster, Chhattisgarh(Owner Of Offending Vehicle Motor Cycle No. C.G. 17 - K 3792)
3. United India Insurance Company Limited, Through The Branch Manager, Branch Office- Jagdalpur, Civil & Revenue District- Baster, Chhattisgarh(Insurer Of Offending Vehicle Motor Cycle No. C.G. 17 - K 3792)

---- Respondents

For Appellants

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Shri P.M. Srivas, Advocate

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****04/01/2017**

1. Heard on admission.

2. It is submitted on behalf of the appellants that the Court below ought to have given interest from the date of filing of the Claim petition and not from the date of award, hence, the present MAC may be admitted for consideration and the prayer as claimed may be allowed. In support of his submission, learned counsel placed reliance on ***Oriental Insurance Company Limited Vs. Mohd. Nasir And Another, (2009) 6 SCC 280 para 47***, which is reproduced as under :

The case law is in reference to a matter of Workmen's Compensation Act, 1923.

“47. The second question which arises for consideration is with regard to the payment of interest. There cannot be any doubt whatsoever that interest would be from the date of default and not from the date of award of compensation”.

He further placed reliance on ***Supe Dei (Smt) And Others Vs. National Insurance Company Limited And Another para 11, (2009) 4 SCC 513***.

“11. Coming to the question of interest this Court in Kaushnuma Begum Vs. New India Assurance Co. Ltd. observed that 9% is the appropriate rate of interest to be awarded and that rate is being applied in motor accident compensation cases”.

He also placed reliance on ***Kaushnuma Begum (Smt) And Others Vs. New India Assurance Co. Ltd. And Others, (2001) 2 SCC 9 para 24***.

“24. Now, we have to fix up the rate of interest. Section 171 of the MV Act empowers the Tribunal to direct that “in addition to the amount of compensation simple interest shall also be paid at such rate and from such date not earlier than the date of making the claim as may be specified in this behalf”. Earlier, 12% was found to be the reasonable rate of simple interest. With a change in economy and the policy of Reserve Bank of India the interest rate has been lowered. The nationalised banks are now granting interest at the rate of 9% on fixed deposits for one year. We,

therefore, direct that the compensation amount fixed hereinbefore shall bear interest @ 9% per annum from the date of the claim made by the appellants. The amount of Rs.50,000/- paid by the Insurance Company under Section 140 shall be deducted from the principal amount as on the date of its payment, and interest would be recalculated on the balance amount of the principal sum from such date”.

Learned counsel would submit that on the basis of case law cited, the Tribunal has committed a mistake by not granting the interest from the date of filing of the claim petition. Hence, the matter may be admitted for consideration.

3. Perused the impugned award dated 5.11.2016 passed by the concerned Tribunal.

4. In the Motor Vehicles Act, 1988 award of interest is provided in Section 171 which is reproduced as under :

171. Award of interest where any claim is allowed. Where any Claims Tribunal allows a claim for compensation made under this Act, such Tribunal may direct that in addition to the amount of compensation simple interest shall also be paid at such rate and from such date not earlier than the date of making the claim as it may specify in this behalf.

5. The case law cited in the matter of Oriental Insurance Company Limited (*supra*) is in relation to Workmen's Compensation Act. There is no pronouncement of law that the said appreciation is also for claim cases under the Motor Vehicles Act, Chapter 12. The other 2 cited case laws are for the rate of interest and not otherwise.

6. From perusal of Section 171 it appears that the legislature has given discretion to the Tribunal in addition to the amount of compensation. The Tribunal may award simple interest and the legislature put barrier that the said

interest shall not earlier than the date of making the claim. With this, discretionary power is with the Tribunal. There is no pronouncement of law so as to take away the right of discretion of the Tribunal for awarding interest from the date of filing of the claim petition. Also from perusal of the impugned award it appears that though the claim petition has been filed in the year 2009, the award has been passed on 5.11.2016. The appellants were the claimants in the said case. This is not the case of the appellant that despite every efforts for early disposal, the matter was delayed only on account of either participation of the non-applicants or whether any delay has been caused by the Court itself.

7. In the considered view of this Court the appellants have failed to make out a case where the matter may be admitted for hearing. Consequently, the instant MAC is dismissed summarily.

8. No order as to cost.

Sd/

(Chandra Bhushan Bajpai)
Judge