

HON'BLE SRI JUSTICE D.V.S.S.SOMAYAJULU

CIVIL MISCELLANEOUS APPEAL No.837 OF 2007

JUDGMENT:

This is an appeal filed against the order dated 29.03.2007 in W.C.No.1 of 2006 passed by the Commissioner for Workmen's Compensation and Assistant Commissioner of Labour, Adilabad.

The brief facts of the case are that the deceased was employed as labour for the vehicle bearing No.AP 1 T 7264 belonging to the opposite party No.1, on monthly wages of Rs.3,000/- per month. While so, on 22.05.2005, the deceased while proceeding with the said vehicle towards Pardi(B) Village, due to rash and negligent driving, the vehicle turned turtle, due to which, he received grievous injuries and thereafter, succumbed to injuries. Claiming compensation, the dependants of the deceased filed the said W.C.

The opposite party No.1 was set ex parte. The opposite party No.2 filed counter denying the allegations made in the application.

On behalf of the applicant, P.W.1 was examined and Exs.A1 to A.5 were marked. On behalf of the opposite parties, no oral or documentary evidence was adduced.

After perusing the entire material available on record, the Commissioner for Workmen's Compensation came to the conclusion that the opposite party Nos.1 and 2 are jointly and

severally liable to pay an amount of Rs.2,47,576/- with interest. This order is now being assailed in the appeal.

Heard Sri V.Venkatarami Reddy, learned counsel for the petitioner and Sri S.Surender Reddy, learned counsel for the respondents.

The learned counsel for the appellant-Insurance Company argued that insurance is a matter of contract and that the appellant did not assume the liability to pay interest. Hence, he vehemently argued that interest cannot be awarded against the Insurance company.

The learned counsel for respondent vehemently argued that after the amendment of the Workmen's Compensation Act, 1995, interest is payable and that the insurer is also liable to pay interest. He pointed out that the lower Court was very careful in awarding the interest. He pointed out that while awarding interest the Commissioner a)relied on settled case law, b) Interest @ 7.5% only was allowed after 30 days after accident and c) Advocate fee was excluded on the interest calculated.

This Court feels that the submissions of the learned counsel for the respondent are correct. That the power to award interest is not available, is not an argument that can be advanced now. The first and foremost pronouncement of the Hon'ble Supreme Court of India in **Pratap Narain Singh Deo v. Srinivas Sabata and another**¹ has held that

¹ AIR 1976 SC 222

compensation is payable from the date of accident. The controversy about interest being due only from the “date of adjudication” is also no longer open. This was settled in the case of ***Ved Prakash Garg v. Premi Devi***². The Judgment of the Hon’ble Supreme Court of India in ***Oriental Insurance Company Limited v. Siby George***³ case also settles all the issues urged. Thus the points urged are no longer *res integra*. The judgments of the Honourable Supreme Court of India are a complete answer to the issues raised in this appeal.

Hence, for all these reasons, the appeal is dismissed. No costs.

Consequently, miscellaneous petitions, if any, pending in this appeal shall stand closed.

D.V.S.S. SOMAYAJULU,J

Date : 11.12.2017
ssp

² AIR 1997 SC 3854

³ 2012(12)SCC 540