

HON'BLE SRI JUSTICE CHALLA KODANDA RAM**C.M.A. No. 4354 of 2003****JUDGMENT:**

This Appeal is filed against the order, dated 12.06.2003, passed in W.C.No.176 of 2003, by the Commissioner for Workmen Compensation and Assistant Commissioner of Labour, Nizamabad, seeking enhancement of the Compensation.

The facts are not in dispute.

The appellant was a labourer, employed with the 1st respondent, owner of the lorry bearing No. AP 25 T 9286, which was, admittedly, insured with the 2nd respondent-New India Assurance Company Limited. On 06.10.2001, he met with an accident and suffered injuries. On examination of the evidence produced, the appellant was determined to have suffered disability of 40% and by applying the formula, a sum of Rs.79,561/- was awarded after treating his wage as Rs.1800/- per month.

Learned counsel for the appellant submits that the Commissioner failed to take into consideration the evidence of the lorry owner-1st respondent to the effect that the appellant was earning Rs.4,000/- per month. He would also further submit that the authority failed to direct payment of interest from the date of accident till the date of payment, in terms of Section 4A of the Workmen's Compensation Act, 1923 (in short "the Act").

Having considered the material on record, there is no material for this Court to come to conclusion that the appellant was earning Rs.4,000/- per month at the relevant time and in

those circumstances, considering the fact that the appellant was only a labourer, working on a lorry, fixation of his salary at Rs.1800/- per month is reasonable. In those circumstances, the claim, so far as enhancement of the appellant is concerned, is rejected.

However, as rightly contended by the learned counsel for the appellant, in terms of Section 4A of the Act, the appellant is entitled to be paid interest at the rate of 12% per annum from the date of accident till the date of deposit. The same is now settled by the Supreme Court in **SABERABIBI YAKUBBHAI SHAIKH AND OTHERS V NATIONAL INSURANCE COMPANY LIMITED AND OTHERS**¹.

Accordingly, the appeal is partly allowed to the extent of awarding interest on the compensation amount, determined by the Commissioner of the Workmens' Compensation and the Assistant Commissioner of Labour, Nizamabad, under Section 4 (3) of the Act, at the rate of 12% per annum, from the date of accident till the date of deposit / payment. No costs.

CHALLA KODANDA RAM, J

Dated:21.12.2017.

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¹ 2014 2 SCC 298