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

CMA.Nos. 52, 55, 56 and 64 of 2007

COMMON ORDER:

These appeals are filed against the order dated 16.12.2006 on the file of the Commissioner for Workmen's Compensation and Assistant Commissioner of Labour, Nizamabad.

As the four cases arise out of a single accident and the point of law urged is the same; a common order is being passed in these appeals.

Heard Sri M.Rajamalla Reddy learned counsel for the appellants. None appeared for the respondents.

Learned counsel for the appellants Sri Rajamalla Reddy argued that the Court below is not justified in negativing the interest claim and that the claim for interest should be awarded from the date of the petition till the date of the realization. The only question that is argued was about the interest payable and the date from which it is payable.

Learned counsel submitted that there were varying judgments of the Hon'ble Apex Court itself on the question of interest and the rate of interest payable. He pointed out that the Workmen's Compensation Act, 1923 (for short the 'Act') was amended in 1995 by which penalty and interest were directed to be paid under the new amended Section 4-A of the Act.

A perusal of the case law reveals that a question arose before the Supreme Court on more than one occasion as to the relevant date when the compensation will fall due. It was held ultimately by the Supreme Court that compensation is "due" on the date on which it was assessed. However, it was noticed that earlier to these judgments itself in the leading case of ***Ved Prakash Garg V.Premi Devi and others***[1], the Hon'ble Supreme Court of India granted and permitted payment of compensation from the date of the accident and not from the date of adjudication of the claim. Again in ***National Insurance Co. Ltd.V. Mubasir Ahmed and Another***[2], two judges of the Supreme Court took the view that interest is payable only from the date of adjudication of the claim. Their lordships held that compensation becomes due only when there is adjudication of the claim. However, the facts reveal after considering the judgments of ***Mubasir Ahmed and Another (2 supra),*** their lordships of the Supreme Court in the case of ***Oriental Insurance Co.Ltd, v. Mohd. Nasir and another***[3] awarded interest at 7% p.a. from the date of filing of the application till the date of the award. They also held that the rate of interest thereafter shall be according to the terms of the award.

[1] AIR 1997 SC 3854
[2] 2007(2) SCC 349
[3] 2009 (6) SCC 280

The controversy about the date from which the interest is payable has finally been set at rest by the judgment of the Supreme Court itself in ***The Oriental Insurance Company Ltd. V. Siby George and Others***[4]. In this case, the Supreme Court noticed that the judgment in ***Oriental Insurance Co.'s case (3 supra)***, did not consider the judgment of the larger Bench of the Supreme Court of India in the judgment reported in ***Pratap Narain Singh Deo V. A.Srinivas Sabata and Another***[5] ***and*** in ***Kerala State Electricity Board and Another V. Valsala K and Another***[6]***.*** The Supreme Court in ***Siby George and Others (4 supra)*** noticed the leading judgment in ***Pratap Narain Singh Deo*** itself, where it was held as follows:

> "The employer therefore become liable to pay the compensation as soon as the aforesaid personal injury was caused to the workmen by the accident which admittedly arose out of and in the course of the employment. It is therefore futile to contend that the compensation did not fall due until after the commissioner's order dated May 6, 1968 under Section 19. What the section provides is that if any question arises in any proceeding under the Act as to the liability of any person to pay compensation or as to the amount or duration of the compensation it shall, in default of agreement, he settled by the commissioner. There is therefore nothing to justify the argument that the employer's liability to pay compensation Section 3, in respect of the injury, was suspended until after the settlement contemplated by

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[4] 2012 (12) SCC 540
[5] AIR 1976 SC 222
[6] 1999 SC 3502

> Section 19. The appellant was thus liable to pay compensation as soon as the aforesaid personal injury was caused to the appellant, and there is no justification for the argument to the contrary." (**emphasis supplied**)

This judgment of four judges of the Supreme Court is followed by three judges of the Supreme Court in ***Valsala K and Another (5 supra),*** wherein their Lordships' held that interest is payable from the date of the accident.

Therefore, in view of the law laid down by four judges in ***Pratap Narain Singh Deo*** and three judges in ***Valsala K and Another,*** and the judgment in ***Siby George and Others (4 supra)*** this Court is of the opinion that interest is payable from the date of the accident till the date of actual payment.

Therefore, this Court is of the opinion that interest at 6% p.a. is payable on the amount awarded from the date of the accident till the date of the adjudication and thereafter, interest at 12% p.a. is awarded on the amount awarded till the same is paid to the applicants.

In the result, the appeals are partly allowed granting interest as per the latest decision of the Supreme Court in ***Siby George and Others*** (4 supra). No order as to costs.

Consequently, miscellaneous petitions, if any, pending in these appeals shall stand closed.

D.V.S.S. SOMAYAJULU, J

Date: .11.2017
KLP