NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 182 of 2018

Ghana Ram Sahu S/o Purshottam Sahu, aged about 50 years, R/o Near Panchmukhi Hanuman Mandir, Shastri Chowk, Camp-1, Bhilai, Tahsil and District Durg (C.G.) (Claimant).

---Appellant

Versus

1. Lokesh Kumar S/o Lekhram, aged about 28 years, Through-Kedar Sav (Driver).
2. Kedar Sao S/o Bam Sao, aged about 50 years (Owner).

   Both are R/o Near New Hanuman Mandir, Lal Bahadur Auto Chakki, Shastri Chowk, Camp-1, Bhilai, Tahsil and District Durg (C.G.).
3. National Insurance Co.Ltd., Through – Divisional Manager, Akash Ganga, Supela, Bhilai, District Durg (C.G.).

---Respondents

For appellant/claimant	:	Shri P.R.Patanker, Advocate.
For resp.Nos.1 & 2	:	Shri Abhijeet Mishra, Advocate.
For resp.No.3	:	Shri Vinod Deshmukh along with Shri Abhishek Deshmukh, Advocates.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

06/03/2018

1. Present is an appeal filed by the claimant under Section 30 of the Employees Compensation Act, 1923 assailing the award dated 05/10/2017 passed by the learned Commissioner, Employees Compensation, Labour Court, Durg (C.G.) in Case No.9/EC Act/2016 (Fatal).

2. The appeal has been admitted on the following substantial question of law:-

> **"Whether the appellant herein would be entitle for interest on the awarded amount from the date of accident as per the provision of Section 4-A of Employees Compensation Act?"**

3. Vide the impugned award, the learned Commissioner in a death case has awarded a compensation of Rs.6,68,130/-. The grievance of the appellant in the instant case is that, the learned Commissioner has not granted any interest on the awarded amount, but has only made an observation that in case if the awarded amount is not deposited by the Insurance Company within a period of 45 days from the date of award, the amount shall carry interest.

4. The contention of the counsel for the appellant/claimant is that, the accident in the instant case took place on 23/10/2015 and the respondents i.e. the owner, driver and the Insurance Company have not paid any compensation to the claimant under the Workmen Compensation Act till the award was finally passed by the Commissioner on 05/10/2017 i.e. for almost about 2 years. He further submits that, the requirement of law as is envisaged under Section 4-A of the Employees Compensation Act clearly specifies that, if for any reason the amount of compensation is not paid within 30 days from the date it fell due, the claimant shall be entitled for interest @ 12% per annum and thus prayed for modification of the award to that extent.

5. The counsel for the respondents however opposing the appeal on the ground that, the award seems to be fair and reasonable. The claimant would be entitled for interest only in case if the respondents did not honour the

award within time specified by the Labour Court and thus prayed for rejection of the appeal.

6. So far as the ground of interest is concerned, once when Section 4-A (3a) specifically envisages awarding of interest on the compensation amount if there is any delay. There is no scope or any liberty being granted to the Commissioner for not awarding the same. The Act also does not empower the Commissioner to deviate from the provision under any circumstances. For ready reference, Section 4-A (3a) is reproduced herein under:-

> **"4A. Compensation to be paid, when due and penalty for default.-**
>
> (1) Compensation under section 4 shall be paid as soon as it falls due.
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> (2) In cases where the employer does not accept the liability for compensation to the extent claimed, he shall be bound to make provisional payment based on the extent of liability which he accepts, and, such payment shall be deposited with the Commissioner or made to the workman as the case may be, without prejudice to the right of the workman to make any further claim.
>
> (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;"

7. Plain perusal of the aforesaid statutory provision clearly reflect that, the employer is duty bound to pay the interest on the delayed amount of compensation payable to the claimant. The interest to be calculated also is specified under the Act itself.

8. Given the circumstances this Court is of the opinion that, it is a fit case to be allowed and the impugned award to be modified.

9. The appeal thus stands allowed to the extent that, the awarded amount of Rs.6,68,130/- shall carry interest @ 12% per annum from the date of accident till the date of realization.

10. At this juncture, the counsel for the appellant makes a request that, since the entire amount awarded by the learned Commissioner has been ordered to be deposit in a fix deposit for 10 years, the amount of interest that would accrue as per the order of this Court may be disbursed to the claimant.

11. The said prayer made by the counsel for the claimant seem to be fair.

12. Thus, it is ordered accordingly that the amount of interest that shall accrue on the said amount being deposited by the Insurance Company the same shall be released to the claimant.

13. The appeal stands allowed and disposed off.

Sd/-

(P. Sam Koshy)
JUDGE

Sumit