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HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 473 of 2012

1. Dev Prasad Kurrey S/o Late Shri Premdas Kurrey, aged about 38 years.
2. Smt.Fohara Bai Kurrey W/o Basant Sharma.

   Both are R/o village Uslapur, Thana Mungeli, District Bilaspur (C.G.) (Claimants).

---Appellants

Versus

1. Smt.Jaya Sharma W/o Shri Basant Sharma, R/o village Devkirari, Post Bitkuli, Tahsil Bilha, District Bilaspur (C.G.) (Owner).
2. Munna Nishad S/o Shri Chaitram Nishad, aged about 35 years, R/o village Bilha, Tahsil Bilha, District Bilaspur (C.G.) (Driver).
3. Reliance General Insurance Co.Ltd., Through Branch Manager, Branch Office – 8th Floor, Landmark Buliding, Wardha Road, Nagpur – 440010.

---Respondents

MAC No. 622 of 2012

Reliance General Insurance Co.Ltd., Through Branch Manager, Branch Office – 8th Floor, Landmark Buliding, Wardha Road, Nagpur – 440010.

---Appellant

Versus

1. Dev Prasad Kurrey S/o Late Shri Premdas Kurrey, aged about 38 years.
2. Smt.Fohara Bai Kurrey W/o Basant Sharma.

   Both are R/o village Uslapur, Thana Mungeli, District Bilaspur (C.G.) (Claimants).
3. Smt.Jaya Sharma W/o Shri Basant Sharma, R/o village Devkirari, Post Bitkuli, Tahsil Bilha, District Bilaspur (C.G.) (Owner).
4. Munna Nishad S/o Shri Chaitram Nishad, aged about 35 years, R/o village Bilha, Tahsil Bilha, District Bilaspur (C.G.) (Driver).

---Respondents

For claimants	:	Shri Anand Shukla, Advocate.
For owner	:	Shri Shikhar Sharma, Advocate.
For Insurance Company	:	Shri S.S.Rajput, Advocate.

Hon'ble Shri Justice P. Sam Koshy
Order on Board

08/03/2018

1. These are the two appeals filed under Section 30 of the Workmen Compensation Act, 1923 arising out a common order dated 15/03/2012 passed by the learned Commissioner, Workmen Compensation, Labour Court, Bilaspur in case No.185/WCA/COC-1-D/09 (F) Claim.

2. Vide the impugned award, the learned Commissioner has awarded a compensation of Rs.4,48,000/-. However, the Commissioner did not grant interest on the said awarded amount and had only imposed the penal interest if the amount is not deposited within the stipulated period.

3. MAC No.473/2012 is an appeal filed by the claimants aggrieved of the action of the learned Commissioner in denying the interest. The substantial question of law in the said appeal was also framed on 06/08/2013 that was, "Whether the Commissioner has erred in not awarding the interest in terms of Section 4-A (3a) of Workmen Compensation Act?"

4. MAC No.622/2012 is an appeal filed by the Insurance Company challenging the liability part.

5. The sole ground which the counsel for the Insurance Company has raised is that, since the deceased was sitting on the body of the Tractor, the Insurance Company would not be liable to indemnify the owner as the Tractor does not permit sitting capacity of more than one i.e. the driver as per the registration book of the Tractor. He further submits that, even otherwise, the deceased in the instant case was said to be a labourer and the Insurance policy did not cover the risk of the labourer traveling in the

Tractor and therefore the Insurance Company cannot be fastened with the liability of payment of compensation.

6. The appeal of the Insurance Company also was admitted on 06/08/2013 on the ground, "Whether the Commissioner had erred in holding that the risk of the deceased who were sitting in the Tractor as a labourer has been assumed by the Insurance Company and thereby in fastening the liability of payment of compensation upon him?'

7. For convenience sake, we deal with the appeal of the Insurance Company first.

8. Perusal of record would show that, the policy issued in respect of the offending vehicle which was a Tractor and Trolley bearing registration No. CG-10-D-1893 was a package policy which was exhibited before the Court below as Ex.D/4. The said package policy was valid at the time of the accident. The premium which was collected was the basic liable premium of Rs.100/- towards the coverage of personal accident of the owner and driver, in addition, an extra premium of Rs.50/- was also taken covering the risk of paid driver, cleaner/conductor total number of persons two.

9. Thus, it clearly reflects that, the Insurance Company had accepted an extra premium covering the risk of two persons traveling in the Tractor.

10. Undisputedly, as per the evidence which have come on record, the deceased in the instant case was traveling on the Tractor in the capacity of labourer as claimed by the claimants, thus it has come before the Court below that he was working for the owner of the Tractor as a labourer and

therefore he could be brought within the ambit of extra person whose risk was covered by the Insurance Company irrespective of the nature of work that he was carrying on.

11. The contention of the counsel for the Insurance Company is that, the Tractor does not permit traveling of more than one person and therefore the Insurance Company would not be liable to cover the risk of more than one person.

12. This contention made by the counsel for the Insurance Company cannot be acceptable for the simple reasons that firstly the policy issued was a package policy and secondly under the package policy, the Insurance Company had charged an extra premium covering the risk of two persons. If the Insurance Company were well aware of the fact that the sitting capacity in a Tractor was one, there was no occasion for the Insurance Company to charged an extra premium covering the risk of extra person.

13. Under the facts and circumstances the appeal of the Insurance Company does not have much force and the same deserves to be and is accordingly rejected. The substantial question of law framed by this Court is answered in negative holding that, the learned Commissioner has not committed any error while fastening the liability of payment of compensation upon the Insurance Company.

14. So far as the appeal by the claimants is concerned, the issue whether the claimants would be entitled for interest on the awarded amount or not is by now well settled by a series of decisions of the Hon'ble Supreme Court so

also by this High Court. Recently on 14/09/2017, this Court in MAC No.65/2009 dealing with the similar issue has held that, the claimants would be entitled for interest on the awarded amount and the rate of interest also shall be as fixed under the act itself.

15. As per Section 4A of the Workmen's Compensation Act in the event of non-depositing of the compensation due to the claimants within 30 days from the date of death of the employee, the employer is liable to pay interest on the amount of compensation. The rate of interest also as fixed by the Act itself, is 12%. In the instant case, the Commissioner has not given any reason as to why the claimants shall not be entitled for interest from the date of accident. Accordingly, it is ordered that the claimants shall also be entitled for the interest at the rate of 12% from the date of accident as per Section 4A of the Workmen's Compensation Act.

16. The Workmen's Compensation Act is a social security legislation. The object of enactment of the said Act was to provide speedy, cheaper and efficient mechanism in determining the payment of compensation due to an injured or family members of the deceased. This being the reason, sub-ection 4A was required to be enacted by amendment made in the year 1959, holding that the compensation under Section 4 shall be paid as soon as it falls due and the second part of the Section deals with in the event of the payment not being made by the employer promptly.

17. The Hon'ble Supreme Court in the case of **Ved Prakash Vs. Premi Devi, 1997 (8) SCS 1**, dealing with the issue of payment of interest under

Section 4A (3)(a) has held that so far as interest under this provision is concerned, it is almost automatic, once default in payment of compensation is committed by an employer beyond permissible limit of one month, the amount payable would automatically attract interest and the Commissioner shall have to pass an order granting interest in such circumstances.

18. In the instant case, the Commissioner while awarding the compensation has awarded the interest only in the event of failure in depositing the compensation amount within 30 days from the date of award, whereas sub section-3 of Section 4A requires the Commissioner to direct the employer to pay interest from the date the amount fell due which would be the date of accident and not the date of judgment. The Hon'ble Supreme Court as early as in the case of **Pratap Narayan Singh Deo Vs. Srinivas Sabata, 1976 (1) SCC 289**, held that the compensation becomes payable on the date of accident and not on the date of determination of amount by the Commissioner. Again, the Hon'ble Supreme Court in case of **Oriental Insurance Co. Ltd. Vs. Khajuni Devi, 2002 (10) SCC 567**, while dealing with the issue of relevant date from which the interest and penalty would be payable, has held that the relevant date for determining the rights and liability of parties is concerned, is the date of accident and not the date of adjudication of the claim. Similar was the view of the Hon'ble Supreme Court in one of its earlier decision in **Kerala SEB Vs. Valsala K, 1999 (8) SCS 254**.

19. In view of the same, the appeal of the claimants stands allowed. It is ordered that the claimants shall be entitled for interest @ 12% per annum from the date it fell due i.e. the date of accident. The substantial question of law thus stands answered in affirmative holding that the learned Commissioner has infact erred in not granting interest.

20. As a consequence, the appeal of the claimants i.e. MAC No.473/2012 stands allowed and the appeal of the Insurance Company i.e. MAC No.622/2012 stands rejected.

Sd/-
(P. Sam Koshy)
JUDGE

Sumit