

AFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MAC No. 971 of 2013

1. Smt. Dameshwari Belchandan W/o Late Dilip Kumarak Belchandan Aged About 25 Years, Occupation House Wife, Caste Kurmi
2. Bhavesh Kumar Belchandan S/o Late Dilip Kumarak Belchandan Aged About 4 Years Minor, Minor through Natural Guardian Mother Applicant No.1 Smt. Dameshwari Belchandan
3. Ashwini Kumar Belchandan S/o Late Dan Singh Aged About 56 Years
4. Smt. Maina Belchandan W/o Ashwini Kumar Belchandan Aged About 53 Years

All permanent resident of village Sarekha, Tahsil Gunderdehi, District Balod, Chhattisgarh. Presently residing at village Kolihapuri, Tahsil and District Durg C.G.

----Appellants

Versus

1. Yogesh Chandrakar S/o Shishupal Chandrakar ,Aged About 40 Years R/o House No. 338, Gali No. 3, Ward No. 5, Gaya Nagar, Durg C.G.
2. The New India Insurance Company Ltd. Through- Branch Manager, Branch Office, Parakh, Station Road, Durg C.G.

---- Respondents

For Appellants	Shri O.P. Sahu, Advocate.
For Respondent No.2	Shri Sudhir Agrawal, Advocate.

Hon'ble Shri Justice Gautam Chourdiya
Judgment on Board

21/06/2019

1. This appeal has been filed by the appellants/claimants under Section 30 of the Workmen Compensation Act, 1923 against the judgment dated 02.08.2013 passed by the Commissioner for Employees Compensation Act, Labour Court, Durg, Chhattisgarh in case no.6/WC Act/2012 (Fatal) whereby the Commissioner awarded a compensation of Rs.7,13,475/- in favour of the claimants with interest at the rate of 12% per annum from the date of accident till deposit, if the amount so

awarded is not deposited within a period of two months.

2. As per averments in the claim petition, deceased Dilip Kumar Belchandan was a driver under the employment of non-applicant no.1 Yogesh Chandrakar. On the date of accident i.e. 04.01.2012 Dilip Kumar Belchandan by driving vehicle Swaraj Mazda bearing no. CG05 ZB 0251 was returning to his work place at Durg. However, on the way at National Highway No.6, in front of Electricity Office at village Tumdibad, driver of truck bearing no. MP09-KD-9353 driving the said vehicle came from opposite direction and dashed the vehicle of the deceased, as a result of which Dilip Kumar Belchandan suffered grievous injuries and succumbed to the same during treatment on 06.01.2012. At the time of accident, the vehicle driven by the deceased was insured with non-applicant no.2.
3. On claim petition being filed by the claimants i.e. wife, son and parents of the deceased under Section 22 of the Employees Compensation Act, the Commissioner considering the evidence led by the parties passed an impugned judgment as mentioned in para 1 of this judgment.
4. Learned counsel for the appellants/claimants submits that the Tribunal was not justified in awarding conditional interest on the compensation amount which is against the provisions of Section 4A(3) of the Act.
5. On the other hand, learned counsel appearing for the respondent no.2 opposes the contention made by the appellants' counsel and supports the judgment impugned.
6. Heard both the parties and perused the record including the impugned judgment.
7. This appeal has been admitted for hearing on the following substantial

question of law:-

“Whether the Commissioner has erred in law in not granting interest on the amount of compensation from the date of accident?”

8. Clause (a) of Sub section 3 of Section 4A of the Act reads as under:

“(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;”

A plain reading of the aforesaid statutory provision itself clearly reflects that if the employer committed a default in making the payment of compensation to the dependents of the deceased employee, the said amount shall carry interest @ 12% per annum.

In the matter of ***Pratap Narain Singh Deo vs Srinivas Sabata & another, 1976 AIR 222***, the Hon'ble Supreme Court held that an employer primarily becomes liable to pay compensation as soon as the personal injury is caused to the workman by the accident which arose out of and in the course of the employment and observed as under:

It was the duty of the appellant, under [section 4A\(1\)](#) of the Act, to pay the compensation at the rate provided by [section 4](#) as soon as the personal injury was caused to the respondent. He failed to do so. What is worse, he did not even make a provisional payment under sub-section (2) of [section 4](#) for, as has been stated, he went to the extent of taking the false pleas that the respondent was a casual contractor and that the accident occurred solely because of his negligence. Then there is the further fact that he paid no heed to the respondent's personal approach for obtaining the compensation. It will be recalled that the

respondent was driven to the necessity of making and application to the Commissioner for settling the claim, and even there the appellant raised a frivolous objection as to the jurisdiction of the Commissioner and prevailed on the respondent to file a memorandum of agreement setting the claim for a sum which was so grossly inadequate that it was rejected by the Commissioner. In these facts and circumstances, we have no doubt that the Commissioner was fully justified in making an order for the payment of interest and the penalty.

9. Thus, the law laid down in *Pratap Narain Singh Deo (Supra)* is that employer becomes liable to pay compensation as soon as the personal injury is caused to the workman in the accident which arises out of and in the course of employment and therefore the relevant date for payment of the compensation and for payment of interest upon it, if the compensation is not paid within one month from the date of accident, would be the date of accident and not the date of award of Commissioner. It is ruled that liability to pay interest at the rate of 12% on the sum in terms of the Section 4A(3) of the Act would accrue from the date of accident itself if the sum is not paid by the employer within one month from the date of accident.
10. Recently, the Hon'ble Supreme Court in the matter of ***North East Karnataka Road Transport Corporation Vs Smt. Sujatha*** reported in ***2019 AAC 244 (SC)***, while considering the issue of award of interest on the amount of compensation under the Employees Compensation Act keeping in view its earlier judicial pronouncements including the judgment in the matter of ***Pratap Narain*** (supra) held that payment of interest @ 12% per annum on the awarded amount shall be from the date of accident.
11. Thus, considering the facts and circumstances of the case, the fact that the employer did not deposit the compensation amount

within one month from the date it fell due, taking note of the judgments of the Hon'ble Supreme Court in ***Pratap Narain & Smt. Sujatha*** (supra), this Court is of the opinion that the Commissioner was not justified in awarding conditional interest @ 12% on the amount of compensation.

12. In the result, the appeal is allowed with modification in the impugned judgment to the extent that the claimants shall be entitled to compensation Rs.7,13,475/- with simple interest @ 12% per annum from the date of accident till realization. The substantial question of law is answered in the affirmative.

Sd/-
Gautam Chourdiya
Judge

Akhilesh