

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.01.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

C.M.A. No.2068 of 2016

1.Kaismin Bibi @ Kaismin Nisha
2.Mohamed Asgar Ali

... Appellants

vs.

1.M/s.T.P.S. Builders
No.51, R.K.Mutt Road, 3rd Floor
Mylapore, Chennai - 600 004

2.United India Insurance Co. Ltd.,
"Silingh Building"
No.134, Greams Road
Chennai - 600 006

... Respondents

Civil Miscellaneous Appeal filed under Section 30 of the Workmen's Compensation Act, 1923 against the order dated 14.12.2015 made in W.C. No.552/2013 by the Deputy Commissioner of Labour - II (Commissioner for Employee's Compensation-II), Chennai - 600 006.

For Appellant : Mr.A.Shanmugaraj

For Respondents : Mr.P.Sankaranarayanan for R1
No Appearance for R2

J U D G M E N T

Challenge in this appeal is to the order of the Deputy Commissioner of Labour - II (Commissioner for Employee's Compensation-II), Chennai - 600 006 14.12.2015 made in W.C. No.552/2013.

2. The only issue in this appeal is, whether the interest for compensation amount is payable immediately after 30 days of the accident in case of default in deposit or from the date of the order passed by the Authority under the Workmen's Compensation and whether the Authority can specify a condition that in case of default in depositing the amount within 30 days from the date of order interest would accrue?

3. Section 4-A of the Workmen's Compensation Act, 1923 deals with the word "falls due", which would mean that interest of compensation would accrue 30 days after the date of the accident and not from the date of the order passed by the Commissioner or a future date that may be specified in the order.

4. This court has already considered various decisions of the Apex Court and granted interest on the compensation from the date of accident. The relevant paragraphs in C.M.A. Nos.1582 of 2013 and 2121 of 2014 dated 23.12.2014, are extracted hereunder:

"28. Now the issue is whether the claimants are entitled to the interest at 12% p.a. on the amount of compensation from the date of adjudication of the claim petition or from one month after the date of accident. The learned Deputy Commissioner awarded the interest at 12% p.a. one month after the date of accident.

29. In this context, it is worthwhile to refer the decision of the Hon'ble Supreme Court reported in *Saberabibi Yakubhai Shaikh v. National Insurance Co. Ltd.*, reported in (2014) 2 SCC 298, wherein it has been held that the claimants therein are entitled to the interest at 12% p.a. from the date of accident. The relevant portion of the order is extracted as under:.

"8. We have perused the aforesaid judgment. We are of the considered opinion that the aforesaid judgment relied upon by the learned counsel for the appellants is fully applicable to the facts and circumstances of this case. This court considered the earlier judgment relied upon by the High Court and observed that the judgments in *National Insurance Co. Ltd. v. Mubasir Ahmed* (2007) 2 SCC 349 and *Oriental Insurance Co. Ltd. v. Mohd. Nasir* (2009) 6 SCC 280 were per incuriam having been rendered without considering the earlier decision in *Pratap Narain Singh Deo v. Srinivas Sabata* (1976) 1 SCC 289. In the aforesaid judgment, upon consideration of the entire matter, a four-Judge Bench of this Court had held that the compensation has to be paid from the date of the accident.

9. Following the aforesaid judgments, this Court in *Oriental Insurance Co. Ltd. v. Siby George* (2012) 12 SCC 540 reiterated the legal position and held as follows: (SCC pp. 545-46, paras 11-13)

"11. The Court then referred to a Full Bench decision of the Kerala High Court in *United India Insurance Co. Ltd. v.*

Alavi (1998) 1 KLT 951, and approved it insofar as it followed the decision in Pratap Narain Singh Deo.

12. The decision in Pratap Narain Singh Deo was by a four-Judge Bench and in Valsala K (1999) 8 SCC 254 by a three-Judge Bench of this Court. Both the decisions were, thus, fully binding on the Court in Mubasir Ahmed and Mohd. Nasir, each of which was heard by two Judges. But the earlier decisions in Pratap Narain Singh Deo and Valsala K. were not brought to the notice of the Court in the two later decisions in Mubasir Ahmed and Mohd. Nasir.

13. In the light of the decisions in Pratap Narain Singh Deo and Valsala K., it is not open to contend that the payment of compensation would fall due only after the Commissioner's order or with reference to the date on which the claim application is made. The decisions in Mubasir Ahmed and Mohd. Nasir insofar as they took a contrary view to the earlier decisions in Pratap Narain Singh Deo and Valsala K. do not express the correct view and do not make binding precedents."

"10. In view of the aforesaid settled proposition of law, the appeal is allowed and the judgment and order¹ of the High Court are set aside. The appellants shall be entitled to interest at the rate of 12% from the date of the accident. No costs."

30. Having regard to the above, I am of the view that the claimants are entitled to the interest on the above said determined amount of compensation at the rate of 12% p.a. from the date of accident.

5. In view of the above, the insurance company is liable to pay interest on the amount payable by them that has been foisted on them by the Deputy Commissioner of Labour-II, Chennai-6 vide his order dated 14.12.2015 made in W.C. No.552/2013 from the date of accident. It is needless to mention, it is open to the appellant to seek similar interest from the employer and not from the insurance company.

6. In view of the same, Civil Miscellaneous Appeal is allowed to the extent mentioned supra and with regard to the other issues, this court is not convinced with the grant of relief. No costs.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

To

The Deputy Commissioner of Labour-II (Commissioner for Employee's Compensation, Chennai - 6).

+1cc to M/s.P.Sankara Narayanan, Advocate Sr.3071
+1cc to Mr.A.Shanmugaraj, Advocate Sr.3335

C.M.A. No.2068 of 2016

BS (CO)

srg 27/02/2020



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