

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
FIRST APPEAL NO. 1042 OF 2022**

- 1) Shaikh Kasam S/o Shaikh Osman,
Age : 52 Years, Occ. Labourer,
- 2) Shaikh Ruksana W/o Shaikh Kasam,
Age : 47 Years, Occ. Household,

Both resident of Ekta Chowk, Chandan Zira,
Jalna Dist. Jalna.

.. APPELLANT
(Orig. Claimants)

VERSUS

- 1) Reliance General Insurance Company Ltd
Through Its Divisional Manager,
ABC Complex, Adalat Road,
Aurangabad.
- 2) Nijam S/o Shukur Sayyad,
Age : Major, Occ. Business,
R/o. Ekta Chowk, Chandan Zira,
Dist. Jalna.

.. RESPONDENTS
(Ori. Respondents)

....
Advocate for the Appellant : Mr. M. R. Deshmukh
Advocate for respondent No.1 : Mr. Swapnil S. Rathi
holding for Mr. R. H. Dahat.

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**CORAM : S. G. DIGE, J.
DATE : 24.08.2022**

JUDGMENT :-

1. Challenge in this appeal is to the judgment and award passed by learned Commissioner for Employees'

Workmen Compensation and Judge, Labour Court, Jalna dated 16.09.2016 in application NO. WC No. 1 of 2016

2. The learned counsel for the appellant submits that the issue involved in this appeal is limited only in respect of the interest granted by learned trial Court. The interest is required to be awarded in terms of provision of Section 4 of the Employees' Compensation Act 1923, which is not awarded. The learned trial Court has awarded the interest after depositing the amount by the respondents. The learned trial Court has further directed that if the amount is not deposited by the respondents within two months, then appellants are entitled for 12% interest on the compensated amount. Learned counsel for the appellant submits that it should be from the date of accident and not from the date of deposit of amount. Learned counsel for the appellant relied on **Ajay Kumar Das and Another Vs. Divisional Manager and Another 2022 SCC onLine 93**

3. Learned counsel for the respondents submits that the trial Court has considered all the aspects and accordingly, the trial Court has passed the order, which is legal and valid.

5. I have heard both the learned counsel. Perused the

judgment and order passed by the trial Court. The issue involved in this appeal is limited regarding the award of interest. In operative order, the trial Court has directed that respondents shall deposit compensation amount within two months, and if the amount is not deposited within the stipulated time, the appellants are entitled to 12% interest on the compensation amount. Section 4(A) and sub section 3 of 4(A) of the Employees' Compensation Act 1923 reads thus

Sub section 3 of 4(A) of the Employees compensation reads

Direct that where any employer is in default in paying the compensation due under this Act within one month from the date it feel 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 and

(b) if, in his opinion there is no justification for the delay, direct that the employer shall, in addition to the amount of the arrears and interest thereon, pay a further sum not exceeding fifty per cent of such amount by way of penalty.

6. This section provides rate of interest of 12%. The Hon'ble Apex Court in the case of **Ajay Kumar Das (supra)** has held that the compensation would fall due from the date of accident. In view of above, the order of learned trial Court is modified as

under :-

ORDER

- (I) The appeal is partly allowed.
- (ii) The respondents shall jointly and severally pay the amount of Rs. 8,90,840/- to the appellant at the rate of 12% interest per annum from the date of accident, till the realization of the amount.

**(S.G. DIGE,)
JUDGE**

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