IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.10936 OF 2023

Prabha Parbhat Gokul Solanki ....Petitioner
V/S
The Registrar
Office of the Commissioner & Ors. ....Respondents

Mr. Vaibhav Sugdare a/w Mr. Ketan Dave, Mr. Kshitij Madekar, Mr. Murali Madekar i/b M/s Madekar & Co. *for the Petitioner.*
Ms. Vaishali S. Nimbalkar, AGP *for Respondent Nos.1 to 3/State.*
Mr. Hafeezur Rahman *for Respondent No.4-SCIL.*

CORAM: SANDEEP V. MARNE, J.
DATE : 4 APRIL 2024.

P.C.:

1 **Rule.** Rule is made returnable forthwith. By consent of the parties, the Petition is taken up for final hearing and disposal.

2 Petitioner has challenged order dated 17 June 2023 passed by the Commissioner for Employee's Compensation & Judge, Third Labour Court, Mumbai (**the learned Commissioner**) by which the application filed by the Petitioner for payment of interest on compensation amount of Rs.79,860/- deposited by Shipping Corporation of India Limited (**SCIL**) is rejected.

3 I have heard Mr. Sugdare, the learned counsel appearing for the Petitioner, Ms. Nimbalkar, the learned AGP appearing for the Respondent/State Government and Mr. Rahman, the learned counsel appearing for the Respondent No.4-SCIL.

4 It appears that by judgment and order dated 10 July 1996, the learned Commissioner allowed the application filed by the Petitioner under section 3 of the Workmen's Compensation Act, 1923 and awarded compensation of Rs.79,860/- to her towards implementation of the judgment and order dated 10 July 1996. The Employer-SCIL deposited amount of Rs.79,860/- with the Registry of the learned Commissioner on 10 September 1996. Simultaneously SCIL filed First Appeal No.1129 of 1996 challenging the judgment and order dated 10 July 1996 passed by the learned Commissioner. It appears that on account of filing of the Appeal before this Court, SCIL requested the learned Commissioner not to disburse the deposited amount of compensation to the Petitioner. By letter dated 27 September 1996, the SCIL communicated to the learned Commissioner that the First Appeal was admitted and this Court directed that compensation amount should not be disbursed till decision of the Appeal. The order passed by this Court staying disbursal of compensation amount is however not placed on record. Be that as it may. On account of letters written by SCIL, apparently the learned Commissioner did not disburse the deposited amount of compensation to the Petitioner.

5 When First Appeal No.1129 of 1996 came up before this Court, it disposed of the Appeal in view of agreement between the parties before it

where SCIL ultimately agreed that the deposited amount of compensation can be withdrawn by the Petitioner alongwith the interest accrued thereon. Paragraph 4 of the order dated 17 August 2022 passed by this Court reads thus:

> "4. Today, learned counsel for the Appellant as well as the Respondent have stated that considering the fact that the deceased was in service for over 20 years and also considering the fact that the compensation awarded by the learned Commissioner is very meager, they have decided to settle the matter amicably. Learned counsel for the Appellant states that the Appellant – Corporation is ready and willing to allow the Respondent to withdraw compensation of Rs.79,860/- deposited by the Corporation on 10/09/1996 **along with interest accrued thereon**. He submits that the settlement/concession is made only in view of special circumstances and not on the merits of the matter. Learned counsel for the Respondent submits that the Respondent is the only legal representative of the deceased – Parbat Gokal Solanki. He submits that the Respondent shall indemnify claim raised by any other person as the legal representative of the deceased and that undertaking to that effect will be filed before the Labour Court, Mumbai within four weeks."

(emphasis supplied)

6 However when the Petitioner approached for withdrawal of the amount of Rs.79,860/- with accrued interest, it transpired that the Registry of the learned Commissioner did not invest the amount of compensation in fixed deposits, on account of which the Registry expressed inability to provide any interest to the Petitioner. This led to Petitioner filing application before the learned Commissioner seeking implementation of order passed by this Court in respect of payment of interest on the amount of Rs.79,860/-. The learned Commissioner has proceeded to reject Petitioner's application by order dated 17 June 2023, which is the subject matter of challenge in present Petition.

7 Ms. Nimbalkar, would strenuously submit that the Registry of the learned Commissioner is not at fault in not investing the amount of compensation. She would attempt to blame SCIL and would urge that it is SCIL alone who can be made liable for payment of interest. She would invite my attention to letters dated 10 September 1996, 19 September 1996 and 27 September 1996 written to the learned Commissioner at the behest of the SCIL repeatedly urging the learned Commissioner not to disburse the deposited amount of compensation. Ms. Nimbalkar would highlight paragraph 7 of the Affidavit-in-Reply and would submit that SCIL had not impleaded State Government as party Respondent to its Appeal and that therefore non-payment of amount of compensation during pendency of Appeal cannot be a reason for penalising the State Government with the liability to pay interest on the amount of compensation.

8 On the contrary, Mr. Rahman is at pains to point out that once the amount is deposited by SCIL in the Registry of the learned Commissioner, it is the responsibility of the Registry to invest the amount so that the amount of compensation earns interest.

9 Mr. Sugdare has placed reliance on Rule 10 of the Workmen's Compensation Rules, 1924 which reads thus:

> "**10. Investment of Money**.- Money in the hands of Commissioner may be invested for the benefit of the dependants of deceased workman in Government Securities or Post Office Cash Certificates, or may be deposited in a Post Office Savings Bank."

10 Thus the Registry of the learned Commissioner was under statutory obligation to invest the monies deposited towards compensation in Government Securities or Post Office Cash Certificates or in Post Office Savings Bank. In my view, the Registry of the learned Commissioner is clearly at fault in not investing the compensation amount deposited by SCIL. In such circumstances, SCIL cannot be made liable to pay interest on the said amount. The liability to pay interest on amount of Rs.79,860/- will have to be put on the State Government on account of mistake committed by that Registry in not complying with provisions of Rule 10 of the Workmen's Compensation Rules, 1924.

11 Petition accordingly succeeds. Order dated 17 June 2023 passed by the learned Commissioner is set aside. Respondent Nos.1 to 3 shall pay simple interest at the rate of Rs.8% per annum to the Petitioner on amount of Rs.79,860/- with effect from 10 September 1996 till the date of payment of such amount to her. The amount of interest shall be paid to the Petitioner within a period of six weeks from today.

12 With the above directions, the Writ Petition is disposed of. Rule is made absolute. No orders as to costs.

(SANDEEP V. MARNE, J.)