IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 409 OF 2014

United India Insurance Co. Ltd. Latur,
through its' Divisional Manager, Aurangabad
Divisional office – 1, Osmanpura, Aurangabad. **APPELLANT**
(Original Opp. No.2)

VERSUS

1. MR. Waghji s/o Bapurao Lamture
Age : 60 years, Occ: Nil
R/o Mahandul, Tq. Chakur
Dist.: Latur,

2. Sow. Mathurabai W/o Waghji Lamture
Aged : 55 years, Occ: Household
R/o Mahandul, Tq. Chakur
Dist.: Latur.

3. Shri Gurubahajsing H. Rajpal
Age: Major, Occ: Business,
R/o 77/1, 27, United Building, J.C. Road,
Banglore. **RESPONDENTS**

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Advocate for Appellant : Mr. Gatne Atul B.

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CORAM : ROHIT W. JOSHI, J.
RESERVED ON : 5th OCTOBER 2026
PRONOUNCED ON : 8th OCTOBER 2026

JUDGMENT :

1. Following substantial question of law was framed in the appeal vide order dated 25.08.2026:-

"Whether the learned Compensation Commissioner ought to have denied interest for the period from 13/08/2002, i.e. the date on which the claim petition was dismissed for want of prosecution, till 17/09/2009, i.e. the date on which it was restored ?"

2. The learned Advocate for Respondent Nos.1 and 2/original Claimants waived service of notice on their behalf. The parties were put to notice that the appeal would be heard finally at the stage of admission on 09.09.2026. On 09.09.2026, the learned Advocate for Respondent Nos. 1 and 2 remained absent. Consequently, the appeal was adjourned to 11.09.2026. On 11.09.2026, the learned Advocate for Respondent Nos. 1 and 2 once again remained absent.

3. Today, when the matter was called out in both sessions, the learned Advocate for Respondent Nos. 1 and 2 remained absent. In this backdrop, the appeal is taken up for hearing in the absence of the learned Advocate for Respondent Nos. 1 and 2. Having regard to the substantial questions involved in the appeal, even if the appeal is allowed, the same would not be detrimental to the interests of Respondent No. 3.

4. Respondent Nos. 1 and 2 had filed an application seeking compensation under the Workmen's Compensation Act, 1923, being W.C.A. No. 40 of 1998. It is their case that deceased Tukaram, while driving a truck in the course of his employment under Respondent No. 3, met with an accident and succumbed to the injuries sustained

therein. The said application seeking compensation on account of death of Tukaram was allowed by the learned Commissioner for Workmen's Compensation and Judge, Labour Court, Latur, vide judgment and order dated 19.01.2010. The learned Commissioner held that the present Appellant and Respondent No. 3 were jointly and severally liable to pay compensation, which was quantified at Rs.2,24,000/- together with interest at the rate of 12% per annum.

5. It is pertinent to note that the application was initially dismissed for want of prosecution vide order dated 19.01.2001 and was restored. On 13.08.2002, subject to payment of costs of Rs.5,000/-. However, the application was once again dismissed on 27.09.2002 as the said costs were not deposited. Ultimately, the application came to be restored on 17.09.2009.

6. The law relating to award of compensation is clear that claimants in compensation cases must be awarded just and fair compensation. In cases where the amount of compensation claimed is less than what they are entitled to, even then, just and proper compensation should be awarded. At the same time, it is also well settled that compensation cases must not result in profiteering.

7. Section 4-A(3)(a) of the Workmen’s Compensation Act, 1923 provides that in case of default in making payment of

compensation within a period of one month from the date on which it falls due, the Commissioner shall direct payment of interest at the rate of 12% per annum in addition to the amount of compensation awarded. The word, "shall" implies that the provision is mandatory.

8. However, as recorded above, the application was dismissed for want of prosecution on 13.08.2002 and was restored on 17.09.2009. The application was dismissed on account of failure on the part of the claimants in leading evidence.

9. In a similar situation, the Kerala High Court, in the case of ***Subair Kaja Subair Vs. V. R. Jayan s/o. Raman,***[1] held that the claimant is not entitled to claim interest from the date on which the application is dismissed in default till the date of its restoration. I am inclined to adopt said course in the present case. Awarding interest to the claimants for the period when the petition stood dismissed for want of prosecution and prior to its restoration will amount to granting a premium to them for their own wrong, which cannot be the intention of the legislature.

10. The appeal is **allowed** by answering the substantial question of law in the aforesaid terms.

1 (MFA No.123 of 2008, decided on 12.12.2008,

11. Award dated 19.01.2010 passed by the learned Commissioner for Workmen's Compensation Act and Judge, Labour Court, Latur in WCA No.40 of 1998 is modified by directing that respondent Nos.1 and 2/original claim petitioners will not be entitled to receive interest on the amount of compensation from 13.08.2002 to 17.09.2009.

12. Parties to bear their own costs.

ROHIT W. JOSHI
JUDGE

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