
(2011) 07 MP CK 0038
In the Madhya Pradesh High Court
Case No : M.A. No. 3407 of 2010

Badri Lal

APPELLANT

Vs

Industrial Gas Supplying Corporation and another

RESPONDENT

Date of Decision : 20-07-2011

Acts Referred:

Workmens Compensation Act, 1923 — Section 4, 4A(3)

Citation : (2011) 131 FLR 689

Hon'ble Judges : N.K. Mody, J

Bench : Single Bench

Judgement

N.K. Mody, J.—This order shall also govern the disposal of M.A. No. 2890/2010 filed by the respondent No. 1 as in both the appeals the order under challenge is dated 22.7.2010 passed by Commissioner for Workmen's Compensation, Labour Court, Dewas in case No. 09/WCNF/2008 whereby the learned Court below on the petition filed by the appellant under the provisions of Workmen's Compensation Act awarded a sum of 72,85,000/- as compensation alongwith interest @ 12% per annum from the date of the accident.

2. In M.A. No. 3407/2010 appeal filed by appellant/claimant while 2890/2010 is filed by the respondent No. 1. Appeal filed by the appellant is barred by 46 days while appeal filed by the respondent is in time. Keeping in view the facts stated by appellant, application filed by the appellant is allowed and the delay in filing the appeal is condoned.

3. Learned Counsel for the appellant argued at length and submits that appellant was working in the Group of respondent No. 1 and sustained injuries on 17.9.2006. It is submitted that because of the injuries both the legs of the appellant were amputated. It is submitted that appellant was earning Rs. 3,000/- per month while learned Court below has assessed the income of the appellant @ Rs. 2,418/- per month on the basis of minimum wages prescribed by Collector, Dewas and after applying the factor of 197.06 as per section 4 of the Workmen's Compensation Act and keeping in view the age of the appellant awarded Rs.

2,85,895/-. It is submitted that as per appellant income of the appellant was Rs. 3,000/- per month and as per respondent No. 1 income of the appellant was Rs. 2,000/-. It is submitted that there was no justification on the part of learned Court below in assessing the income of the appellant @ Rs. 2,000/- per month. It is submitted that appeal be allowed and income of the appellant be assessed (c) Rs. 3,000/-. In the appeal filed by the respondent No. 1, it is submitted that learned Court below committed error in holding the respondent No. 1 liable for payment of interest from the date of accident till to the date of award. It is submitted that respondent No. 1 has deposited the interest. It is submitted that appeal be allowed and amount awarded be enhanced accordingly.

4. Learned Counsel for the respondent No. 2 submits that learned Court below committed error in awarding interest (c) 12% per annum which ought to have been @ 7.5% per annum from the date of application till to the date of award and thereafter one month @ 12% per annum.

5. After hearing Counsel at length, this Court is of the opinion that the learned Court below committed error in assessing the income of the appellant @ Rs. 2,418/- per month which ought to have been assessed on the basis of evidence adduced by appellant according to which income of the appellant is Rs. 3,000/- per month. Otherwise also accident is of the year 2006, record which could have been produced by the respondent No. 1 to prove that the respondent No. 1 was paying wages (c) Rs. 2,000/- per month was not produced by respondent No. 1. In the facts and circumstances of the income of the appellant is assessed Rs. 3,000/- per month. So far as interest is concerned, in the matter of Oriental Insurance Co. Ltd. v. Mohd. Nasir, 2009 (121) FLR 1103 (SC), wherein Hon''ble Apex Court has held that liability to pay the interest commences from the date of application. In the matter of Usha Bai v. Yousuf Ali, 2010 (1) MPWN 44. wherein this Court has held that the claimants are entitled for interest @ 2% per annum after a month from the date of adjudication u/s 4A(3)(a) of the Act and prior to it interest is payable @ 7.5% per annum from the date of application. So far as the period from the date of application till adjudication is concerned, claimant is entitled for interest @ 7.5% per annum.

6. Keeping in view the aforesaid position of law, this Court is of the opinion that learned Court below committed error in awarding the interest (c) 12% per annum. In view of this appeal is allowed. Appellant is entitled for a sum of Rs. 3,54,708/- instead of Rs. 2,85,895/-. Appellant is further emitted for interest on the amount of compensation which shall be payable to the appellant @ 7.5% per annum from the date of application and @ 12% per annum after one month of the award. Since respondent No. 1 has already deposited the amount of interest, therefore, respondent No. 1 shall be entitled to get back the same from respondent No. 2.

7. With the aforesaid observations, both the appeals stand disposed of. A copy of this order be kept in the record of MA No. 2890/2010. C.C. as per rules.