
(2002) 09 OHC CK 0028
In the Orissa High Court
Case No : Misc. Appeal 610 of 1999

Divisional Manager, New India Assurance Co. Ltd.	APPELLANT
Vs	
Pravati Kar and Another	RESPONDENT

Date of Decision : 03-09-2002

Acts Referred:

Citation : (2002) 2 OLR 399

Hon'ble Judges : P. Ray, J

Bench : Single Bench

Advocate : P. Roy, for the Appellant; D.K. Mohapatra and L.D. Kabi, for the Respondent

Final Decision : Dismissed

Judgement

P. Ray, J.—The present appeal has been filed by the Insurer. New India Assurance Company Ltd., against the impugned order dated April 29, 1999 passed by the Commissioner For Workmen's Compensation-cum-Labour Commissioner, Cuttack (in short, the "Commissioner") in W.C. Case No. 424-D/97.

2. By the impugned order, the Commissioner has awarded interest " 12% per annum from the date of the accident till the date of deposit on the compensation as awarded by him.

3. The main claim case was disposed of by the Commissioner by his judgment and award dated January 25, 1999. Against the said award, the Insurer filed Misc. Appeal No. 220 of 1999. The said Misc. Appeal was dismissed on August 29, 2001. During the pendency of the said Misc. Appeal, the claimant filed an application for awarding interest on the amount of compensation. Relying upon the decision of the Supreme Court in Ved Prakash Garg and Ors. v. Premi Devi and Ors., reported in 1998 (1) T.A.C. 215 (S.C.), the Commissioner awarded interest " 12% from the date of the accident till the date of deposit.

Mr. Roy, learned Advocate appearing for the Appellant-Insurance Company has submitted that the Commissioner had acted beyond his jurisdiction in awarding

interest on the compensation amount by a subsequent order. Mr. Roy, has further submitted that the Commissioner has erroneously awarded such interest from the date of accident instead of the date of the award.

Mr. D. K. Mohapatra, learned Advocate appearing for the claimant- respondent has cited several decisions of the Supreme Court awarding interest from the date of the accident till the date of payment. In Maghar Singh Vs. Jashwant Singh, the Supreme Court granted 9% interest per annum from the date of the accident till the date of recovery of actual payment. The Supreme Court has categorically held :

"....On the aforesaid interpretation of these two statutory schemes, therefore, the conclusion becomes inevitable that when an employee suffers from a motor accident injury while on duty on the motor vehicle belonging to the insured employer, the claim for compensation payable under the Compensation Act along with interest thereon, if any, as imposed by the Commissioner Sections 3 and A-A (3)(a) of the Compensation Act will have to be made good by the Insurance Company jointly with the insured employer. But so far as the amount of penalty imposed on the insured employer under contingencies contemplated by Section 4-A (3) (b) is concerned as that is on account of personal fault of the insured not backed up by any justifiable cause, the Insurance Company cannot be made liable to reimburse that part of the penalty amount imposed on the employer. The latter because of his own fault and negligence will have to bear the entire burden of the said penalty amount with proportionate interest thereon if imposed by the Workmen's Commissioner."

In the said judgment, the Supreme Court granted interest from the date of the accident till the date of payment.

In Kerala State Electricity Board and Anr. v. Vasala K. and Anr., reported in 2000 (1) T.A.C. 6 (SC), the Supreme Court has held that the relevant date for determination of the rate of compensation is the date of the accident and not the date of adjudication of the claim. Similar views have been taken by other High Courts like Andhra Pradesh, Gauhati and Kerala. In view of the position of law as laid down by the Supreme Court, the appellant cannot have any valid grievance against the award of interest on the compensation from the date of the accident till payment or deposit thereof.

For the reasons aforesaid, there is no merit in the appeal and accordingly the same is dismissed.