
(2015) 02 MP CK 0166
In the Madhya Pradesh High Court
Case No : M.A. No. 297 of 2015

Kali Baii

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 03-02-2015

Acts Referred:

Citation : (2015) 02 MP CK 0166

Hon'ble Judges : K.K. Trivedi, J

Bench : Single Bench

Advocate : Aparna Singh, Learned Counsel, for the Appellant

Final Decision : Partly Allowed

Judgement

K.K. Trivedi, J—Heard on the question of admission.

2. Admit.

3. Issue notice.

4. Shri Govind Patel, learned counsel appeared and waives notice on behalf of the respondent-Union of India.

5. Since the issue raised in the present appeal is squarely covered by a decision of this Court in the case of Kishori Lal v. Union of India (M.A. No.1494/2009, decided on 2.7.2009), learned counsel for the parties are heard finally :-

"The question agitated in the appeal is about the non grant of interest with effect from the date of application till passing of the award. The similar question has been considered by Division Bench of this Court in M.A. No.3370/2005 decided on 20.3.2007, in which the Division Bench of this Court has laid down thus :-

We have heard learned counsel for parties with respect to grant of interest.

With respect to payment of interest during pendency of application, Division Bench of this Court has rendered a decision in MA No. 2868/2006 (Siddha Muni

Shukla and others v. Union of India and another) which takes care of the submission raised as to award of interest pendente lite. Division Bench of this Court has held that it is open to the Tribunal to award interest from the date of filing of claim petition even in the absence of provision in that regard in the Act, Division Bench has considered the matter thus :-

"On a scrutiny of the award, it is clear as day that the interest has been granted on a condition that if the respondent would pay compensation within 60 days, no interest would be leviable. It is trite law that this would not amount to grant of interest. Mr. Dubey has submitted that the interest may be granted from the date of presentation of the application before the tribunal i.e. from 16.9.2002. To buttress his aforesaid submission, he has placed reliance on the decision rendered in the case of Union of India (UOI) Vs. Smt. Laxmipati and Another, (1995) ACJ 644 : AIR 1995 MP 90 : (1995) 40 MPLJ 28 : (1995) MPLJ 28 .

Recently, this Court in the case of Union of India v. Rami Bai in M.A. No.1220 of 2006 after referring to various decisions rendered in the cases of Ambica Quarry Works Vs. State of Gujarat and Others, AIR 1987 SC 1073(1) : (1987) 1 SCC 213(1) : (1987) 1 UJ 174 , Ramesh Chand Daga Vs. Rameshwari Bai, (2005) 100 CLT 257 : (2005) 1 DMC 678 : (2005) 3 JT 476 Supp : (2005) 4 SCC 772 : (2005) 2 SCR 927 , Zee Telefilms Ltd. and Another Vs. Union of India (UOI) and Others, AIR 2005 SC 2677 : (2005) 4 CompLJ 283 : (2005) 2 JT 8 : (2005) 4 SCC 649 : (2005) 2 SCR 913 : (2005) AIRSCW 2985 : (2005) 1 Supreme 886 and Executive Engineer, Dhenkanal Minor Irrigation Division, Orissa, Vs. N.C. Budharaj (Dead) by Lrs. etc. etc., AIR 2001 SC 626 : (2001) 91 CLT 754 : (2001) 1 JT 486 : (2001) 1 SCALE 109 : (1999) 9 SCC 514 : (2001) 1 SCR 264 , has expressed the opinion as under :-

"13. We have referred to the aforesaid decision only to show that in the absence of any prohibition interest can be awarded as an accessory or incidental to the sum awarded as due and payable. On a scrutiny of the Act and the Rules it is clearly evincible that there is no prohibition. The Division Bench of this Court in the case of Smt. Laxmipati (supra) has dealt with the provisions of the Act, Rules and the conception of grant of interest. The Division Bench had addressed itself with regard to the claims for unliquidated damages. The Division Bench decision is a binding precedent on us and we do not find any reason to differ with the same. In fact, we respectfully concur with the said view. We may state here, Mr. Upadhyaya laboured hard to persuade us that the law laid down in the case of Laxmipati (supra) requires reconsideration in view of the law laid down in the case of Sanjay Sampatrao Gaikwad (supra) and Rathi Menon (supra). We have already dealt with the decision rendered in the case of Rathi Menon (supra) and expressed the opinion that the Apex Court has not laid down the law that interest can only be granted from the date of the order passed by Railway Claims Tribunal. As far as the law laid down in the case of Sanjay Sampatrao Gaikwad (supra) with due respect, has not persuaded us to express a different note than that has been stated in the case of Laxmipati (supra)."

In view of the aforesaid, the appeal is allowed to the limited extent that the awarded sum shall carry interest at the rate of 6% per annum w.e.f. 16.9.2002 till the date of payment.

The appeal is allowed to the extent indicated above. There shall be no order as to costs."

Coming to rate of interest, Ms. Tulika Sharma, learned counsel appearing for respondent is right in her submission that it would be appropriate to award interest at the rate of 6% per annum as Division Bench of this Court has considered the aforesaid aspect and has awarded interest at the rate of 6% instead of 12% as claimed. Similar decision has been taken by Division Bench of this Court in M.A. No. 226/95 decided on 8.8.2005.

In our considered opinion considering the reduction in rate of interest, it would be appropriate to award interest at the rate of 6% per annum from the date of filing of application before the Tribunal till the date on which amount is paid.

Accordingly, appeal is partly allowed. Interest is ordered to be paid at the rate of 6% per annum from the date of filing claim petition till the amount is paid. No order as to costs."

6. The case of the appellant is similar, accordingly it is ordered that let the interest be paid @ 6% per annum from the date of filing of the application till the award was passed. For rest of the period, the interest is ordered to be paid as ordered by the Tribunal.

7. Appeal is allowed in part to the aforesaid extent. No costs.