

(2013) 01 MP CK 0009
In the Madhya Pradesh High Court
Case No : M.A. No. 756 of 2004

Lakhvinder Singh

APPELLANT

Vs

Balvir Singh and Another

RESPONDENT

Date of Decision : 03-01-2013

Acts Referred:

Citation : (2014) ACJ 113

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

Bench : Single Bench

Advocate : Narendra Singh Chauhan, for the Appellant; Amrit Ruprah, for the Respondent

Final Decision : Partly Allowed

Judgement

J.K. Maheshwari, J.—This appeal u/s 30 of the Workmen's Compensation Act has been filed by the appellant being aggrieved by the award dated 23.1.2004 passed by Commissioner for Workmen's Compensation, Labour Court, Jabalpur in Case No. 90/2000/W.C. Non-Fatal awarding an amount of Rs. 88,402 commensurate to the disability, i.e., 40 per cent as per the certificate (Exh. P7) along with interest at the rate of 9 per cent if the amount has not been paid within the period of 45 days. Mr. Chauhan, learned counsel for the appellant, contends that the injured was a driver and received injury during the course of employment having permanent disability to the extent of 40 per cent as opined by doctor but looking to the injuries he may not be able to perform the work in future which he was performing prior to accident, therefore treating it to be a case of 100 per cent disability the compensation may be awarded to the appellant. In addition to the aforesaid, it is urged that the interest leviable on the amount of compensation from the date of accident as per section 4-A of the Workmen's Compensation Act has not been awarded by the court below, therefore it may be ordered to be awarded in the light of the judgment of Supreme Court in the case of The Oriental Insurance Company Ltd. Vs. Siby George and Others, , as well as of this court in the case of National Insurance

Company Ltd. Vs. Ramesh Kumar Burman and Another, .

2. Per contra, Ms. Ruprah, the learned counsel for the insurance company, contends that looking to the document, Exh. P7, and the finding of the Commissioner for Workmen's Compensation, it is clear that the injured has received 40 per cent disability to which compensation has rightly been awarded, however the argument advanced by the appellant treating it to be a case of 100 per cent disability is unfounded on the basis of the material available on record. On the point of interest, it is urged that the appellant has not claimed any interest before this court, therefore, he is not entitled to claim any interest.

3. After hearing learned counsel appearing on behalf of the parties and on perusal of the record, certificate of permanent disability, Exh. P7, and the statement of the claimant as well as of the doctor and the finding of Commissioner for Workmen's Compensation, in the considered opinion of this court the injured has received disability to the extent of 40 per cent and this case cannot be treated to be a case of 100 per cent disability in the facts and circumstances so brought on record. In such circumstances, the argument so advanced by learned counsel for the appellant on the said issue is hereby repelled.

4. Now coming to the point of award of interest as per section 4-A of the Workmen's Compensation Act as well as in the light of judgment of the Supreme Court in the case of The Oriental Insurance Company Ltd. Vs. Siby George and Others, , as well as of this court in the case of Ramesh Kumar Burman (supra), the appellant would be entitled to claim the interest if the amount has not been paid by the employer from the date of accident. So far as the argument advanced by Ms. Ruprah, learned counsel for the insurance company, that the said interest has not been claimed before this court is of no substance because the interest which is leviable under the statute as per the scheme of the Act is required to be paid on the amount of compensation if determined by the Commissioner for Workmen's Compensation. Thus the finding recorded by the Commissioner for Workmen's Compensation to pay the interest at the rate of 9 per cent if amount of compensation is not deposited within 45 days, is hereby set aside and it is directed that the appellant would be entitled to get interest at the rate of 12 per cent on the amount of compensation from the date of accident till its realization in the light of the aforesaid judgments of the Hon'ble Apex Court as well as of this court. Accordingly, the appeal filed by the appellant stands partly allowed to the extent as indicated above. In the facts and circumstances of the case the parties are directed to bear their own costs.