
(2006) 03 AP CK 0058
In the Andhra Pradesh High Court
Case No : C.M.A. No. 263 of 2006

National Insurance Company Limited	Vs	APPELLANT
Raheema Begum and Others		RESPONDENT

Date of Decision : 20-03-2006

Acts Referred:

Workmens Compensation Act, 1923 — Section 10, 4A(3)

Citation : (2007) 2 ACC 174 : (2007) ACJ 2481 : (2006) 5 ALD 801 : (2006) 3 ALT 403

Hon'ble Judges : L. Narasimha Reddy, J

Bench : Single Bench

Advocate : K. Sita Ram, for the Appellant; Aella Madhava Reddy, for the Respondent

Final Decision : Allowed

Judgement

L. Narasimha Reddy, J.—This C.M.A. is filed by the Insurance Company, against the order, dt. 31-10-2005, passed by the learned Commissioner for Workmen's Compensation and Assistant Commissioner of Labour, Hyderabad (for short "the Commissioner") in W.C.No. 182 of 2004.

2. Respondents 1 to 3 herein filed the claim before the Commissioner under the provisions of the Workmen's Compensation Act, 1923 (for short "the Act"), claiming compensation of Rs. 5,00,000/-. They pleaded that one late Mehatab Khan, who is husband of the 1st respondent, father of the 2nd respondent and son of the 3rd respondent, was employed as a driver of the vehicle bearing No. AP-13T-627, owned by the 4th respondent. It was alleged that on 31-8-2004, when Mehatab Khan was proceeding on the said vehicle from Hyderabad to Srisailam, he stopped the vehicle at Tupugudam for taking meals, and thereafter, when he was crossing the road, a vehicle bearing No. AP-9W-5056 came in a rash and negligent manner and hit him, as a result, he sustained grievous injuries. Immediately, he was shifted to Osmania General Hospital, Hyderabad. The vehicle was insured with the appellant herein, which was

impleaded as the 2nd respondent in W.C.

3. After examining the claim of respondents 1 to 3 and the plea of the appellant herein, the Commissioner awarded a sum of Rs. 3,19,649/- as compensation. He proceeded to award a sum of Rs. 44,751/- towards interest at the rate of 12% per annum on the said amount, from the date of accident till the date of award. This appeal is filed challenging the order passed by the Assistant Commissioner, insofar as it awarded interest from the date of accident.

4. Heard the learned Counsel for the appellant and the learned Counsel for the respondents.

5. The only question that falls for consideration in this appeal is as to whether the Assistant Commissioner was justified in awarding interest, on the amount of compensation from the date of occurrence of accident. As observed earlier, there is no challenge to the computation or award of the compensation, as such. Sub-section (3) of Section 4A of the Act provides for award of interest, which reads as under.

(3) Where any employer is in default in paying the compensation due under this Act within one month from the date it fell due, the Commissioner shall-

(a) direct that the employer shall, in addition to the amount of the arrears, pay simple interest thereon at the rate of twelve per cent per annum or at such higher rate not exceeding the maximum of the lending rates of any scheduled bank as may be specified by the Central Government, by notification in the Official Gazette, on the amount due.

From a reading of this provision, it is clear that the Commissioner can award interest only in the event of default, in payment of compensation, within one month from the date, when it fell due. It hardly needs any emphasis that the compensation becomes due, only on its being awarded by the competent authority.

6. There are instances, where the Courts have taken the view that if the victim of an accident or his dependants serve a notice u/s 10 of the Act, the liability to pay the compensation would arise and any default would entail in payment of interest also. Much would, however, depend upon the nature of notice and the absence of any controversy, as to the quantum of compensation. For example, where the occurrence of accident is not in dispute, the notice u/s 10 of the Act is served, and the amount can be ascertained without having recourse to any adjudication, the amount can be said to have become due from the date of service of such notice. But, if an element of adjudication becomes necessary, be it, in the matter of ascertaining whether the accident has taken place at all, or whether the claimants are the dependants of the victim, or as regards the loss of estate; the compensation would become due, from the date of such adjudication and the default can be said to have been committed, only after expiry of one month from the date of such adjudication. Clause (a) of Sub-section (3) of Section 4A of the

Act is very clear on this aspect.

7. In the instant case, the respondents did not plead that they have issued any notice u/s 10 of the Act. The adjudication has taken place on 31-10-2005. The default can be said to have occurred, only after expiry of one month from that date. Therefore, interest becomes payable with effect from 30-11-2005 and not earlier there to. The Commissioner did not take this aspect into account and awarded interest from the date of accident. Such a course would run contrary to the specific provisions of Sub-section (3) of Section 4A of the Act.

8. For the foregoing reasons, the Civil Miscellaneous Appeal is allowed. It is directed that the amount of compensation i.e., Rs. 3,19,649/-, awarded by the Commissioner, shall carry interest at the rate of 12% per annum, one month subsequent to the date of award i.e., 30-11-2005. In all other respects, it shall hold good. Consequently, the Commissioner shall refund the amount of Rs. 44,751/-, to the appellant and permit respondents 1 to 3 to withdraw the rest of the amount, in the same manner, as directed in the order, dated 31-10-2005. There shall be no order as to costs.