
(2005) 07 MP CK 0038
In the Madhya Pradesh High Court

New India Assurance Co. Ltd.	Vs	APPELLANT
Pancham Singh (dead) through Sheela Bai and Others		RESPONDENT

Date of Decision : 27-07-2005

Acts Referred:

Employees Compensation Act, 1923 — Section 30

Citation : (2007) ACJ 486

Hon'ble Judges : S. Samvatsar, J

Bench : Single Bench

Final Decision : Allowed

Judgement

S. Samvatsar, J.—This appeal is filed by the insurance company u/s 30 of the Workmen's Compensation Act challenging the award dated 16.3.1993 passed by the Commissioner for Workmen's Compensation, Circle 1, Gwalior in Case No. 19 of 1990 W.C.A. (Fatal).

2. Brief facts of the case are that Brajendra Singh, aged 23 years, son of Pancham Singh, respondent No. 1, died in an accident on 4.2.1990. Claimant No. 1 is the father of the deceased and claimant No. 2 is his son. They filed an application for compensation before the Commissioner, Workmen's Compensation. Commissioner by the impugned award has awarded an amount of Rs. 70,384 as the compensation plus 50 per cent penalty for delayed payment and interest at the rate of 6 per cent per annum, in case of default of payment within a month from the date of award the interest was payable at the rate of 12 per cent per annum.

3. Insurance company has filed this appeal challenging the part of the award whereby the Commissioner has awarded the amount of penalty and interest against the insurance company. Insurance company has filed this appeal after depositing the aforesaid amount.

4. Contention of Mr. Malhotra, learned counsel for the appellant is that the court below has erred in awarding the penalty and interest against the insurance

company. For this purpose counsel for appellant has relied upon the judgment of Apex Court in the case of Ved Prakash Garg Vs. Premi Devi and others, , wherein the Apex Court has held that the insurance company is not liable to pay the amount of penalty for late payment of the amount of compensation and it is the liability of the owner to deposit the amount of penalty. Next judgment relied by counsel for appellant is the judgment of Apex Court in the case of P.J. Narayan Vs. Union of India (UOI) and Others, In that case the Apex Court had held that insurance company is not statutorily liable for payment of interest of the amount of compensation and it is the liability of the employer to pay the interest. In that case there was a clause in the insurance policy that the insurance company will not be liable to pay interest and Apex Court has held that the said condition in the policy is valid and in the light of the said condition in the policy the insurance company is not liable to pay the amount of interest. Next judgment relied by counsel for appellant is the judgment of Supreme Court in the case of National Insurance Co. Ltd. Vs. Keshav Bahadur and Others, , to show that insurance company is not liable to pay interest in default of payment of the amount.

5. After perusing the said judgment I find that the said judgment arise out of an award of the Motor Accidents Claims Tribunal and not in respect of Workmen's Compensation Act. Learned Counsel for the appellant has also relied on the judgment of Apex Court in the case of Kerala State Electricity Board and Another Vs. Valsala K and Another, . In the aforesaid judgment the Apex Court has held that enhanced rate of interest by amendment dated 15.9.1995 in the Workmen's Compensation Act shall be applicable to the accidents which have taken place after the coming into force of the said amendment and not prior to the amendment. Relying on this judgment the contention of learned counsel for appellant is that as the accident in the present case has taken place prior to 15.9.1995 only 6 per cent could have been awarded by the Commissioner, Workmen's Compensation and the award directing for payment of interest of 12 per cent after one month of the judgment is illegal.

6. After perusing the impugned policy I find that there is a condition in the policy that the insurance company shall not be liable to pay the interest on the amount of compensation awarded by the Commissioner, Workmen's Compensation. Thus, the present case is fully covered by the judgment of Supreme Court in the case of P.J. Narayan Vs. Union of India (UOI) and Others, in which the Supreme Court has held that if there is a condition in the policy that the insurance company shall not be liable to pay the interest on the amount of compensation then the insurance company is not liable for the payment of the same.

7. In view of the aforesaid judgment, I allow this appeal and set aside that part of the judgment whereby the insurance company is held liable for payment of interest and penalty.

8. Appeal stands allowed and disposed of with no orders as to costs.