

(2020) 06 J&K CK 0093

In the Jammu And Kashmir High Court

Case No : CONC No. 302 Of 2011, Miscellaneous Appeal No. 583 Of 2011, IA No. 1101 Of 2011

New India Assurance Co. Ltd

APPELLANT

Vs

Surjit Kour And Others

RESPONDENT

Date of Decision : 19-06-2020

Acts Referred:

Employee Compensation Act, 1923 — Section 30

Citation : (2020) 06 J&K CK 0093

Hon'ble Judges : Sanjeev Kumar, J

Bench : Single Bench

Advocate : Vipin Gandotra

Final Decision : Dismissed

Judgement

Sanjeev Kumar, J

CONC 302/2011

This is an application seeking condonation of delay of 58 days in filing the appeal.

For the reasons stated in the application, it is allowed. Accordingly, delay of 58 days in filing the appeal is condoned.

MA 583/2011

1. This appeal filed under Section 30 of the Workmen Compensation Act (hereinafter referred to as "the Act") is directed against the award of the Commissioner Workmen's Compensation Act (ALC), Kishtwar (hereinafter referred to as "the Commissioner") dated 30.08.2011 whereby the appellant has been directed to pay an amount of Rs.4,42,740/- as principal amount and Rs.2,12,515/- as interest.

2. The appeal has been preferred on the following substantial question of law:

i. Whether any liability to pay interest from the date of filing of the petition can

be fastened on the insurance company in view of the law laid down by the Hon'ble Supreme Court ?.

3. Mr. Vipin Gandotra, learned counsel appearing for the appellant submits that apart from erroneously imposing the interest on awarded amount of compensation, the Commission has also committed an error by taking the income of the deceased as Rs.4000/- per month, particularly when there was no cogent evidence brought on record by the claimants.

4. Having heard learned counsel for the appellant and perused the record, I am of the view that the income of the deceased which has been taken by the Commissioner as Rs.4000/- per month is a question of fact and does not give rise to any question of law much less a substantial question of law.

5. The Commissioner, in the light of evidence on record, has come to a conclusion of fact that the salary of the deceased at the time of accident was Rs.4000/- per month.

6. Learned counsel for the appellant has not been able to point out any infirmity in the aforesaid finding of fact. That apart, the appellant has not suggested or proposed any such question of law in its memo of appeal. The only substantial question of law proposed in the memo of appeal is with regard to the liability to pay interest on the awarded amount of compensation. The issue raised is no longer res integra.

7. This Court in the case of Ghulam Mohd vs Divisional Manager, SFC Doda, decided on 12.03.2020 has categorically held that the interest on the awarded amount of compensation is payable with effect from the expiry of one month from the date of accident.

6. In view of the aforesaid, I do not find any substantial question of law involved in this appeal for adjudication of this Court and in the absence thereof, this appeal filed under Section 30 of the Act is not maintainable. The same is, accordingly, dismissed.