(2014) 06 CAL CK 0021

In the Calcutta High Court

Case No : F.M.A.T. 1229 of 2013 and C.A.N. 867 of 2014

Nurasa Bibi and Others APPELLANT

Vs

The New India Assurance Co. Ltd. and Others RESPONDENT

Date of Decision : 25-06-2014

Acts Referred:
Motor Vehicles Act, 1988 — Section 171

Citation : (2014) 06 CAL CK 0021

Hon'ble Judges : M.K. Chaudhuri, J;Indira Banerjee, J

Bench : Division Bench

Advocate : Sima Ghosh, Advocates for the Appellant; Animesh Das, Advocates for the Respondent

Judgement

1. On going through the application for condonation of delay and after hearing learned Counsel for the parties, we are satisfied that the appellants were prevented by sufficient cause from filing the appeal within time.

2. The delay of 46 days in filing the appeal (as per report of the Stamp Reporter) is condoned.

3. The appeal be registered and proceeded with.

4. The application for condonation of delay being C.A.N. 867 of 2014 is, thus, allowed.

5. Since the appeal is restricted to the issue of legality of the interest awarded by the learned Tribunal, by consent of the parties the same is treated as on day''s list and disposed of on the basis of the papers on record.

6. The claimants/appellants contend that the learned Tribunal erred in awarding interest at the rate of 9% from the date of order till realisation.

7. Section 171 of the Motor Vehicles Act 1988 provides that where the Tribunal allows a claim application under the said, the Tribunal might direct that in addition to compensation, simple interest should be paid at such rate and from

such date not earlier than the date of making the claim application, as the Tribunal might specify.

8. It is true that the Tribunal has absolute discretion to determine the rate of interest and also the date from which such interest would be payable, subject to the condition that interest cannot be granted from any date prior to the date of preferring the claim application. However, having regard to the principles of equality envisaged under the Constitution of India, it is not desirable that similarly circumstanced claimants should be treated differently in the matter of awarding interest. In our view, there should be some uniformity in the principles for grant of interest in motor accident claim cases. This is imperative for the ends of justice and also to inspire faith and confidence of litigants in general in the impartiality of the judicial system.

9. The Tribunal has expressly been conferred with the power to grant interest from the date of filing of the claim application. Interest should ordinarily be granted from the date of filing of the claim application, unless there are good reasons for awarding interest from a later date, for example when disposal of the claim application has been delayed due to reasons attributable to the claimants, such as delay in service of notice, repeated adjournments etc.

10. In F.M.A. No. 1346 of 2013 (Smt. Niva Devi v. The New India Assurance Company Limited and another) a Division Bench of which one of us (Sahidullah Munshi, J.) was member, examined the question of the rate of interest that should be awarded to a successful claimant under Section 171 of the Motor Vehicles Act, 1988, referring to the decisions of the Supreme Court in Narchinva V. Kamat & Ors. v. Alferdo Antonio Deo Martins & Ors. reported in AIR 1985 SC 1181; R.K. Tandon v. Om Prakash & Anr., reported in 2000(1) TAC 212; Smt. Kaushnuma Begum and Others Vs. The New India Assurance Co. Ltd. and Others, ; National Insurance Co. Ltd. Vs. Keshav Bahadur and Others, ; Dharampal & Ors. v. U.P. State Road Transport Corporation reported in 2008 SAR (Civil) 666 and N. Manjegowda Vs. The Manager, the United India Insurance Co. Ltd., .

11. The Division Bench found that from 1985 till 1999 the Supreme Court generally granted 12% per annum interest. In R.K. Tandon (supra) the Supreme Court granted 12% interest referring to galloping inflation and erosion of rupee value. However, referring to the change in economy, Reserve Bank of India''s policy and fixed deposit interest rates of nationalised banks, the rate of interest was reviewed in Kaushnuma Begum (supra) and the rate of interest was lowered from 12% to 9%. In Dharampal the Supreme Court held that the claimant should be paid 7.5% interest which was the bank rate on 18th May, 2005 when the award was passed by the Tribunal.

12. The Division Bench found on analysis of the judgments referred to above, that the Supreme Court has laid down the principle that the rate of interest under Section 171 of the Motor Vehicles Act should be fixed on the basis of the

term deposit interest rates of nationalised banks on the date of the award.

13. It appears that the Division Bench gave the respective parties the opportunity to collect information with regard to the rates of interest of nationalized banks prevalent over the years. Nothing was produced. On the other hand, the appearing lawyers requested the Division Bench to fix the rates of interest on awards.

14. After considering all aspects and the available interest rates of term deposits as well as judgments of the Supreme Court, the Division Bench was of the view that it would be fair and reasonable to fix 8% per annum interest for awards passed from 2006 onwards. Accordingly, in the case before the Division Bench the interest rate was enhanced to 8%.

15. In the instant case the award was passed on 2nd May, 2013. We thus hold that the appellant/claimants would be entitled to interest at the rate of 8% per annum from the date of submission of the claim application till full liquidation of the awarded amount, but as per reducing balance, if applicable.

16. In our view, there was no reason to deprive the appellant claimants of pendente lite interest. No reasons have, in any case, been disclosed. We hold that the claimants were entitled to interest from the date of submission of the claim application till the date of full payment of the awarded amount, as per reducing balance, if applicable.

17. The judgement and award under appeal is modified only to the extent indicated above.

18. If the awarded amount has not yet been deposited, the same shall immediately be deposited before the learned Tribunal with interest as directed by this order.

19. The appeal is disposed of.

20. Urgent certified photostat copy of this order, if applied for, be supplied to the learned Advocates appearing for the parties, subject to compliance with all requisite formalities.