

(2001) 12 JH CK 0005
In the Jharkhand High Court

Radha Saha

APPELLANT

Vs

Dayanand Agarawal and Others

RESPONDENT

Date of Decision : 12-12-2001

Acts Referred:

Motor Vehicles Act, 1988 — Section 171

Citation : (2003) 3 ACC 193

Hon'ble Judges : Vinod Kumar Gupta, C.J.; D.N. Prasad, J

Bench : Division Bench

Judgement

V.K. Gupta, C.J.—Delay in filing the appeal is condoned.

2. The appeal is taken up for hearing and final disposal today itself.

3. Mr. G.C. Jha, Advocate has appeared for the Oriental Insurance Company Limited (respondent No. 2).

4. The limited and short grievance of the appellant in this appeal is that the Tribunal while granting the compensation and awarding interest on the compensation amount, calculated the interest from the date of the award and that pendente lite interest was not awarded in favour of the appellant.

5. We have heard the learned Counsels for the parties.

It has now been an established norm, a well settled proposition of law based on the established norms, that in all accident claim cases the Tribunals award interest on the compensation amount from the date of the filing of the claim petition. Actual awarding of the interest on the compensation amount in all such cases comprises two ingredients : first, being pendente lite; and the second, future. The Tribunals award pendente lite interest, that is, from the date of filing of the claim application and then future interest, that is from the date of the judgment/ award till amount is paid.

6. In this case, even though the interest has been awarded for a period commencing after the date of the judgment, for no explained reason whatsoever,

the Tribunal omitted to award interest pendente lite. The appellant-claimant was entitled to be awarded the interest pendente lite as well.

7. Even though Section 171 of the Motor Vehicles Act, 1988 does not specifically lay down as a stipulation that interest should mandatorily be awarded pendente lite the legislative intent behind Section 171 is amply clear that where any Claims Tribunal allows a claim for compensation, it may direct that in addition to the amount of compensation, simple interest shall also be paid from such date which may not be earlier than the date of making the claim application.

Section 171 of the Motor Vehicles Act, 1988 reads as under:

171. Award of interest where any claim is allowed-Where any Claims Tribunal allows a claim for compensation made under this Act, such Tribunal may direct that in addition to the amount of compensation simple interest shall also be paid at such rate and from such date not earlier than the date of making the claim as it may specify in this behalf.

8. The expression "not earlier than the date of making the claim" clearly indicates that the Legislature had in mind a stipulation that at least on and from the date of filing of the claim application, the claimant should be awarded interest on the compensation amount. The purpose, obviously, behind such legislative intent is clear. The victims of motor accidents claiming compensation also suffer on account of the delay in the disposal of claim petition. It is a widely known fact that it takes years and years for such cases to be disposed of, and almost always for no fault of the claimants. If the claimant, therefore, files a claim petition, he expects the award to be passed immediately. If the passing of the award takes years and years, how can he be deprived of the benefit of interest on the compensation amount? This is a very sound policy of compensating a claimant by both awarding compensation to him as well as interest thereon during the pendency of the claim petition. Of course, there might be cases where the Tribunal may decline to award interest pendente lite, but such would be rare and exceptional cases, relatable to such factors where the delay in the disposal of the claim petition is directly attributable to the claimant. In any event, whenever a Tribunal does not propose to grant pendente lite interest, it would be in the fitness of things if the Tribunal assigns valid reasons for doing so. This being the legislative intent, therefore, the Tribunal was wholly unjustified in not awarding interest on the compensation amount from the date of the application.

9. The appeal is, accordingly, allowed. The judgment under challenge in this appeal is modified to the extent that interest on the compensation amount of Rs. 1,05,000/- (Rupees one lac five thousand) shall be calculated on and from the date of filing of the claim application upto 5th May, 2000 i.e. the date of passing of the award. This amount shall be paid by the Insurance Company (respondent No. 2) to the claimant-appellant within two months from today. If it is not done, the interest liability as far as the future interest on and from the 5th May, 2000

shall stand increased from 10 percent to 18 percent per annum.