

(2003) 09 JH CK 0145
In the Jharkhand High Court
Case No : M.A. No. 8 of 2003

Sukhdeo Pandey and Others

APPELLANT

Vs

Tarsila Toppo and Others

RESPONDENT

Date of Decision : 22-09-2003

Acts Referred:

Citation : (2004) 1 ACC 652 : (2004) 1 JCR 272

Hon'ble Judges : Gurusharan Sharma, J; Amareshwar Sahay, J

Bench : Division Bench

Advocate : S.N. Pathak, for the Appellant; None, for the Respondent

Judgement

1. Heard, owner of the car (BHW 7800) has challenged only part of the impugned judgment and award dated 26.9.2002, passed by Motor Vehicle Accident Claim Tribunal. Hazaribagh, in Claim Case No. 62 of 1991, whereby on his failure to pay the amount of compensation with 5% interest within three months, the claimant was directed to recover the same through the Court's processes with 9% interest, the Tribunal awarded a sum of Rs. 1,21,500/-payable as compensation to the heirs of Bahadur Uraon, who lost his life in motor accident dated 31.1.1991, in which the car in question was involved. Firstly the claim case was decided ex parte. However, the ex parte judgment was set aside and the claim was reheard and decided on merit.

2. Regarding grant of interest the Tribunal observed as under in paragraph 17 :

"The instant claim application was filed in the year 1991 and the same is being disposed of in the year 2002. From the perusal of the entire record including the order-sheet, I find that the claimants as well as the opposite party both are responsible for the delayed disposal of the case. In such circumstance in my opinion, the claimants are entitled to interest over the awarded amount of compensation, but the ratio would be only 5%, that to say, in the given facts and circumstance of the case, the claimants shall be entitled to an interest @ 5% only on the awarded amount of compensation, calculable from the date, of filing

of the claim application till final payment."

3. Further in the second part of paragraph 18 of the impugned judgment the Tribunal made the following observations :

"The O.P. No. 1, namely, Sukhdeo Pandey S/o Late Rameshwar Pandey, resident of Telephone Exchange, Bank Road, Dhanbad (retired employee of Coalfields, Bilaspur, Madhya Pradesh) is hereby ordered to pay the aforesaid awarded amount of compensation to the claimants by drawing an A/c payee cheque in the name of claimant No. 1 (Tar-sila Toppo) within a period of three months from the date of this order, failing which the claimants shall be entitled to realise the same through the process of the Court and in that event the opposite party shall have to pay an interest @ 9% per annum over the awarded amount of compensation payable to the claimants calculable from the date of filing of the claim petition till the date of final payment."

4. It appears that the tribunal enhanced the rate of interest from 5% to 9% only to ensure payment of compensation forthwith and on failure of the owner to pay the award amount to the claimant within three months of the order, the claimants were to be compelled to go for its recovery through Court's processes. No body prevented the appellant to pay/deposit the award amount with 5% interest within three months of the order of the Tribunal and having failed to pay, he has made himself liable to pay the enhanced rate of interest. We, therefore, find no reason to interfere with the impugned judgment and award in this appeal. The appellant must deposit the entire amount with interest within four weeks. This appeal disposed of.