
(2012) 03 DEL CK 0251
In the Delhi High Court
Case No : FAO 111 of 2012

The Oriental Insurance Company Ltd. APPELLANT
Vs
Sh. Sukhvinder Singh and Another RESPONDENT

Date of Decision : 14-03-2012

Acts Referred:

Employees Compensation Act, 1923 — Section 30, 4A

Citation : (2012) 3 AD 486 : (2013) 136 FLR 424 : (2012) 4 LLJ 319 : (2012) LLR 564

Hon'ble Judges : Veena Birbal, J

Bench : Single Bench

Advocate : A.K. Soni, for the Appellant;

Final Decision : Dismissed

Judgement

Veena Birbal, J.—Present is an appeal u/s 30 of the Employees Compensation Act, 1923 (hereinafter referred to as "the Act") challenging the order dated 30th December, 2011 wherein appellant has been directed to pay interest @ 12% per annum from 17.11.2008 to 18.12.2008 on the amount of compensation i.e., Rs. 4,42,008/-.

2. Briefly the background is as under:-

On 19th November, 2002, an accident had taken place within the jurisdiction of PS Bagodar District Girdih, Jharkhand wherein respondent no.1 received injuries by an accident arising out of and in the course of his employment as driver on Truck No. DL 1GB 1638 owned by respondent no.2 and insured with appellant. Thereupon respondent no.1 filed a claim application before the Commissioner under the Employee's Compensation Act claiming compensation on the ground that he had sustained 100% disability as he was unable to drive the vehicle. Considering the relevant facts and circumstances, learned Commissioner vide order dated 25th August, 2008 awarded compensation of Rs. 4,42,008/- in favour of respondent no.1 and appellant was directed to pay the said

compensation amount. It is stated that the said amount was deposited with the Commissioner on 19th December, 2008. Against the said order, appellant had filed an appeal being FAO 19/2009 before this Court. The same was dismissed on 19th April, 2011. Thereafter, respondent no.1 filed an application u/s 4A of the Act for the grant of interest on the compensation amount before the Commissioner. The said application was decided vide impugned order dated 30th December, 2011 wherein interest as stated above has been awarded.

3. Learned Counsel for the appellant has contended that appellant is not liable to pay interest. It is contended that interest fell due on the date of adjudication, as such, same was not payable after 30 days of the date of accident, as is held by the learned Commissioner. It is further submitted that in the present case it was unscheduled injuries suffered by respondent no.1, as such interest could have been awarded only after the adjudication.

4. It may be noted that in the application for award of interest of claimant, no reply has been filed by the appellant nor the same was contested by them before the learned Commissioner, as is noted in the impugned order.

5. Present is a case of total disability covered under the list of injuries under Schedule I of the Act. In a 100% disability case, it cannot said to be a case of unscheduled injury, as is contended. Learned Counsel for appellant has failed to substantiate its stand.

6. The question whether the interest would be payable 30 days after adjudication by the Commissioner under the Act or 30 days after the date of accident has already been dealt in detail by this Court in FAO 53/2012 today itself wherein considering various judgments of the Supreme Court, it has been held that interest becomes payable after one month from the date of accident and not after one month of adjudication by the Commissioner. Accordingly, following the said judgment, present appeal stands dismissed.

CM 4465/2012 (for stay)

In view of the above order, no further order is required on the present application. The same stands disposed of accordingly.