(2008) 08 PAT CK 0034

In the Patna High Court

Case No : M.A. No. 173 of 2004

United India Insurance Co. Ltd. APPELLANT

Vs

Zarina Khatoon and others RESPONDENT

Date of Decision : 18-08-2008

Acts Referred:

Citation : (2008) 08 PAT CK 0034

Final Decision : Dismissed

Judgement

Subash Chandra Jha, J.—The order under challenge is dated 1.4.2004 passed in C.W.J.C. No. 36 of 1997 by Workmen''s Compensation Commissioner, Gaya.

2. Heard the learned Counsel for the appellant-United India Insurance Company Ltd. and learned Counsel for the respondents-Zarina Khatoon and others.

3. Zarina Khatoon being wife of Late Ashik Ansari had filed a C.W.C. No. 36 of 1997 before the Commissioner, Workmen''s Compensation, Gaya (hereinafter referred to as Commissioner only).

4. She happens to be wife of Ashik Ansari who was driver of the truck. The Compensation Commissioner decided the matter on 25.11.1998 and computing principal and interest, he directed the appellant-Insurance Company to deposit Rs. 1,60,639/- (One lakh sixty thousand six hundred thirty nine) only by way of principal and interest till that date Rs. 1,35,560/- (One Lakh Thirty five thousand five hundred sixty) as principal and Rs. 25,079/- (Twenty five thousand seventy nine) as interest with a direction to deposit the said amount within thirty days, failing which interest at the rate of 12% was to be realized from the appellant.

5. It has been submitted that appellant deposited the money on 12.2.1999 and also preferred an appeal vide Misc. appeal No. 12 of 1999 which was dismissed. Now, the point is that after communication of the order of the High Court passed in Misc. Appeal No. 11/12 of 1999 dated 15th May, 2002 the learned Commissioner has again recalculated the amount of interest to be paid by the appellant Insurance Company till payment and, thus, computing the same v. to

the tune of Rs. 51,056/- (Fifty one thousand and fifty six) he directed for deposit of the said amount in the Court either through cheque or D.D. within thirty days. This Misc. Appeal has, thus, been directed against the impugned order which was treated to be a petition filed for review on the earlier order of the Commissioner.

6. The learned Counsel for the appellant by referring a decision of the Apex Court reported in New India Assurance Co. Ltd. Vs. Harshadbhai Amrutbhai Modhiya and Another, has submitted that the Insurance Company is not liable to pay interest or penalty in the absence of any specific contract between employer and the Insurance Company to that effect. So, distinguishing the application for payment of interest in such cases from that of Motor Accident Claims Tribunal, emphasis has been given that payment of interest should not have been directed to be paid by the Insurance Company. Since Misc. Appeal has been decided much earlier i.e. on 15th May, 2002. So, the decision of 2006 (5) SCC 2006 is not applicable in the present facts and circumstances, as appeals in connection with liability of interest and principal has already been dismissed. So, Insurance Company is not liable to pay the interest and principal as ordered by the Commissioner.

7. The impugned order shows that money was deposited by the Insurance Company. But, a prayer before the appellate Commissioner was also made by the same Insurance Company on 16.2.1999 for stoppage of such payment to the claimants and fund could have been released for payment to the claimants only after dismissal of the appeal by the Hon''ble Court on 15.5.2002.

8. In the facts and circumstances, the learned Commissioner has computed the interest commencing from the period of passing of the impugned order on 25.11.1998 to 15.5.2002 at the rate of 12% and, thus, calculated the same at Rs. 51,056/- (Fifty one thousand and Fifty six) only.

9. Since principal has been paid, so, I do not intend to pass any order in respect of further payment of the interest after 1.4.2004.

10. In view of the fact that now, payment of rate of interest by financial institution to the depositors has been reduced drastically, so, payment of Rs. 51,056/- (Rs. Fifty one thousand and Fifty six only) will serve the purpose in case it is paid within thirty days.

11. I do not find any merit in this appeal. The appeal, thus, stands dismissed.

