

(2012) 05 P&H CK 0137

High Court Of Punjab And Haryana At Chandigarh

Case No: F.A.O. No"s. 2798 of 2001, 3895 of 2002, 2202 of 2005, 2440 and 4218 of 2008
and 4773 of 2010 (O and M)

United India Insurance Co. Ltd.

APPELLANT

Vs

S. Balkar Singh and Others

RESPONDENT

Date of Decision: May 8, 2012

Citation: (2013) 136 FLR 975

Hon'ble Judges: Nawab Singh, J

Bench: Single Bench

Advocate: R.C. Gupta, H.K. Arora, Kuldeep Singh, Vinod Gupta, D.K. Dogra, Deepak Sharma, Ms. Sarita Tanwar, Ms. Vandana Malhotra, Sandeep K. Sharma and Vishal Chaudhary, for the Appellant; R.K. Bashomboo and G.C. Shahpuri, for the Respondent

Final Decision: Dismissed

Judgement

Nawab Singh, J.

This judgment shall dispose of aforesaid six appeals, as the question for determination by this Court is common in all these cases.

FAO No. 2798 of 2001:

Insurance Company"s appeal challenging the judgment dated May 30, 2001 passed by the Commissioner under the Workmen"s Compensation Act, 1923, (for short "the Commissioner") Yamunanagar, whereby, legal heirs of Satya Pal were awarded compensation of Rs. 2,22,000/- along with interest at the rate of 12% per annum from 5.5.1999 (after one month of the accident) till actual payment, on account of death of Gurjeet Singh @ Happy, during the course of employment.

FAO No. 3895 of 2002:

Claimant"s appeal challenging the judgment dated April 30, 2002 passed by the Commissioner under the Workmen"s Compensation Act, 1923, (for short "the Commissioner") Circle Kurukshetra, Camp at Kaithal, whereby, she was awarded

compensation of Rs. 2,24,000/- on account of death of Rajesh Kumar, during the course of employment. The Insurance Company was directed to pay the amount within 30 days and in case of default, the company was also to pay simple interest at the rate of 12% per annum from the date of judgment till realization.

FAO No. 2202 of 2005:

Claimants' appeal challenging the judgment dated February 21, 2005 passed by the Commissioner under the Workmen's Compensation Act, 1923, (for short "the Commissioner") Hoshiarpur, whereby, they were awarded compensation of Rs. 2,74,400/- on account of death of Baljit Kumar @ Sonu, during the course of employment. The Insurance Company was directed to pay the amount within 60 days and in case of default, the company was also to pay penal interest at the rate of 6% per annum from the date of accident.

FAO No. 2440 of 2008:

Claimant's appeal challenging the judgment dated February 08, 2008 passed by the Commissioner under the Workmen's Compensation Act, 1923, (for short "the Commissioner") Ambala at Kaithal, whereby, she was awarded compensation of Rs. 2,52,092/- on account of death of Vinod Kumar, during the course of employment. The Insurance Company was directed to pay the amount within 30 days and in case of default, the company was also to pay interest at the rate of 12% per annum from the date of judgment till realization.

FAO No. 4218 of 2008:

Claimants' appeal challenging the judgment dated November 20, 2007 passed by the Commissioner under the Workmen's Compensation Act, 1923, (for short "the Commissioner") Rohtak, whereby, they were awarded compensation of Rs. 3,39,570/- on account of death of Narender, during the course of employment. The Insurance Company was directed to pay the amount within 30 days and in case of default, the company was also to pay simple interest at the rate of 12% per annum from the date of judgment till realization.

FAO No. 4773 of 2010:

Insurance Company's appeal challenging the judgment dated May 24, 2010 passed by the Commissioner under the Workmen's Compensation Act, 1923, (for short "the Commissioner") Kurukshetra, whereby, legal heirs of Gulab Singh were awarded compensation of Rs. 4,07,700/- along with interest at the rate of 12% per annum from the date of filing of claim application till its decision, that is from February 4, 2009 to May 24, 2010 on account of death of Gulab Singh, during the course of employment.

The solitary and common question for determination before this Court in all these appeals is, as to whether the claimants were entitled to interest or not and if entitled

to what extent.

2. The point at issue is not res-integra. In Sh. Anish v. Nasrudin Kureshi and another FAO No. 2509 of 2011 decided on January 16th, 2012, this Court after relying upon judgments of the Hon"ble Supreme Court in (i) Pratap Narain Singh Deo v. Srinivas Sabata and another,¹ (ii) Kerala State Electricity Board and another v. Valsala K. and another etc. etc.² and of this Court, (iii) New India Assurance Company Limited v. Manphool Singh and others? held as under:--

(i) The relevant date for determining the rights and liabilities of the parties is the date of accident.

(ii) The compensation becomes due from the date of accident and not from the date of order of adjudication by the Commissioner, and

(iii) The employer has been given thirty days" cushion and interest shall start running and liable to be paid after thirty days of the accident.

3. Above being the legal position, the claimants are held entitled to the interest at the rate of 12% per annum on the amount of compensation, awarded in their respective cases from thirty days after the accident took place till the awarded amount was deposited by the insurance company under the impugned judgment. Accordingly, FAO Nos. 2798 of 2001 and 4773 of 2010 are dismissed, whereas, FAO Nos. 3895 of 2002, 2202 of 2005, 2440 of 2008 and 4218 of 2008 are allowed to the above extent.