

**(1996) 01 MP CK 0037**

**Madhya Pradesh High Court**

**Case No:** M.A. No. 321 of 1993

MPSRTC

APPELLANT

Vs

Vestibai and Another

RESPONDENT

**Date of Decision:** Jan. 31, 1996

**Acts Referred:**

- Workmens Compensation Act, 1923 - Section 30, 4A(3)

**Citation:** (1996) 2 LLJ 498

**Hon'ble Judges:** Nirmal Kumar Jain, J; Asha Ram Tiwari, J

**Bench:** Division Bench

**Advocate:** Kemkar, for the Appellant; Kumari Indira Vyas, for the Respondent

**Final Decision:** Partly Allowed

### **Judgement**

@JUDGMENTTAG-ORDER

Tiwari, J.

The unsuccessful appellants has filed this Miscellaneous Appeal u/s 30 of the Workmen's Compensation Act, 1923 (for short "the Act") against the order dated May 28, 1993 passed by the Commissioner for Workmen's Compensation (Labour Court), Indore in Case No. 24/88 thereby directing the appellant to deposit the amount of compensation of Rs.62, 107 together with interest @ 12% per annum from April 19, 1988 as also a sum Rs. 53, 586 as penalty @ 25% within a period of 60 days from the date of the order.

2. Factual matrix lies in a narrow compass. Pratap was the employee of the appellant on the bus as a driver. On April 17, 1988 he was on duty on the bus bearing registration No. CPO-9034. While taking the bus from Barwani to Indore, an accident occurred in the night at 1.00 a.m. The employee Pratap suffered injuries in this accident and later succumbed to death. Vestibai, widow of the deceased and Kumari Padma, the daughter of the deceased Pratap, filed an application before the Labour Court for compensation. The Labour Court awarded compensation with interest and

penalty as noted above in favour of the Respondents. Aggrieved, the appellant has filed this appeal.

3. We have heard Shri Kemkar, learned counsel for the appellant and Kumari Indira Vyas, learned counsel for the respondents.

4. Shri Kemkar raised only two contentions before us:-

(a) The interest awarded is in excess of the statutory limit provided u/s 4A of the Act.

(b) The penalty is wrongly calculated as Rs.53,586

5. The counsel for the Respondents supported the order.

6. An appeal lies to this Court from the order awarding interest or penalty u/s 4A of the Act. Sub-section (aa) is inserted in Section 30 vide Act No. 8 of 1959 w.e.f. June 1, 1959.

7. Section 4A(3) provides as under:-

"Where any employer is in default in paying the compensation due under this Act, within one-month from the date it fell due, the commissioner may direct that, in addition to the amount of the arrears, simple interest at the rate of six percent per annum on the amount due together with, if in the opinion of the Commissioner there is no justification for the delay, a further sum not exceeding fifty percent of such amount, shall be recovered from the employer by way of penalty".

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8. The penalty of 25% on the amount of compensation works out of Rs. 15,527. Manifestly the calculation of Rs. 53,586 is an error apparent on the face of the record.

9. As regards the level of interest, we find that Section 4A(3) provides for grant of simple interest at the rate of six percent per annum.

10. In 1980 Lab.I.C. I25(DB) Iqbal Sham-suddin Ansari v. Gazi Salauddin Ansar and Anr., it is held that the claimant becomes entitled to interest when there is a case of wrongful withholding of amount by the employer in the aforesaid decision, it is held as under:

"The Commissioner has not awarded interest. He has not given any reason for the same. The wrongful withholding of the amount by the employer as also his insurer, if he is so liable, entitled the claimant to interest u/s 4A of the W.C. Act. His appeal is liable to be allowed to this extent.....

The result is that the appeal is partly allowed. The order of the Commissioner is modified to this extent that the appellant gets interest on the awarded amount at 6% per annum from the date of the order of the trial Court viz. August 28, 1970 till the date of recovery".

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11. We are satisfied that the appellant was in default in paying the compensation due under the aforesaid Act within one month from the date it fell due and as such, it incurred the liability to pay the interest though @ 6% per annum and also became liable to pay the penalty as imposed since in our opinion, there was no justification for causing the delay. The legal representatives in such case, should not left in the lurch and employer should spurn the pettifoggery and make the payment as required under the law, without unnecessary delay. The delay therefore, entails additional liability in the shape of interest and penalty.

12. In the result, we allow this appeal in part and modify the award in the under noted terms:-

- (a) The appellant shall pay compensation of I Rs.62, 107. I
- (b) The appellant shall pay penalty of Rs. 15,527 as noted above in addition to the aforesaid amount of compensation.
- (c) The appellant shall pay interest @ 6% per annum in terms of Section 4A of the aforesaid Act.

13. The Labour Court shall proceed further in the matter in conformity with law. So far as this appeal is concerned, we leave the parties to bear their own costs as incurred.