

MPSRTC Vs Vestibai and Another

Court: Madhya Pradesh High Court

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. 125(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.