

(1991) 08 MP CK 0028
Madhya Pradesh High Court
Case No: M.C.C. No. 224 of 1991

New India Assurance
Co. Ltd.

APPELLANT

Vs

Prema Bai and Others

RESPONDENT

Date of Decision: Aug. 30, 1991

Acts Referred:

- Workmens Compensation Act, 1923 - Section 4A

Citation: (1993) ACJ 75 : (1999) 3 LLJ 506

Hon'ble Judges: T.N. Singh, J

Bench: Single Bench

Advocate: B.M. Malhotra, for the Appellant; N.M. Haswani, for the Respondent

Final Decision: Partly Allowed

Judgement

T.N. Singh, J.

Heard counsel. Review is prayed of the order dated March 25, 1991 passed by me in Misc. Appeal No. 118 of 1987. However, the review being obviously a discretional jurisdiction, I thought it proper and legitimate to examine the grounds of review in juxtaposition with the order and also reminded myself of the settled law that review jurisdiction should not be lightly exercised as per [Col. Avtar Singh Sekhon Vs. Union of India \(UOI\) and Others](#), Only where there is a case of substantial injustice occurring on account of the relevant order or law is applied perversely to reach a perverse conclusion and result, review is allowed.

2. What I found reading the review petition is that award of interest at the rate of 12 per cent per annum only has been challenged. It is true that interest was awarded at the rate of 12 per bent per annum and it is equally true that claim was preferred under the Workmen's Compensation Act and decided as well under that Act. On facts too i find that provisions of that Act exclusively and conclusively apply and there is no scope in any manner for the application of any provisions of the Motor

Vehicles Act, new or old.

3. Admittedly, the question was whether the deceased was a "workman" who died in an accident during the course of employment and that question in appeal being decided in appellants-claimants' favour award was passed by this Court reversing the judgment of the Workmen's Compensation Court. Unfortunately, my attention was not drawn to the statutory provision of the Act, Section 4A which has specified the rate of interest, i.e., "simple interest at the rate of 6 per cent per annum". I do not think if there can be any scope in view of the statutory fetters on discretion of this Court to allow interest at the rate of 12 per cent still that had been done in this case. Mr. Haswani submitted that there is a decision of this Court though he is not able today to cite that. But, in my view, the statutory provision being clear I do not think I have to postpone further hearing of this appeal to allow the counsel to address me and cite that decision. Indeed, facts of that case may be different, a case which, though of an employer, if decided under Motor Vehicles Act, may attract provisions of that Act and under that Act, discretion vests in the Tribunal/Court to award any reasonable interest. That position does not obtain under the Workmen's Compensation Act and Court's discretion is specifically circumscribed in the manner aforesaid.

4. For the reasons stated above, the review is allowed in part and the award passed on March 23, 1991 in M.A. No. 118 of 1987 stands modified to the extent that instead of interest of 12 per cent per annum the applicants-appellants shall be entitled to interest at the rate of 6 per cent per annum from the date of death till payment. It is true that earlier interest was awarded from "date of application" but u/s 4A the liability of interest arises from the date of death/accident.

5. Although Mr. Haswani has prayed that I entertain orally his prayer for review of the same order and impose penalty u/s 4A, I do not think if that bold and courageous exercise I should undertake to set at naught all norms of judicial decency and discipline. The only way I can alleviate the suffering otherwise of the claimants-appellants (non-petitioners in the instant case) is to make a direction that if amount of award has not been deposited that must be done within two weeks. Some amount, Mr. Malhotra submits, has been deposited on August 8, 1991. That shall be allowed to be withdrawn by the claimants and the further amount to be deposited within two weeks shall also be allowed to be withdrawn when that is done.