
(2015) 03 CHH CK 0003

Chhattisgarh High Court

Case No: Misc. Appeal (C) No. 1215 of 2014

Paltu Ram Sahu and
Others

APPELLANT

Vs

Devi Prasad Thakur
and Others

RESPONDENT

Date of Decision: March 13, 2015

Acts Referred:

- Employees Compensation Act, 1923 - Section 19, 3, 4, 4A, 4-A(1)

Citation: (2015) 2 CGLJ 527 : (2015) 145 FLR 478 : (2015) 2 LLJ 765

Hon'ble Judges: Goutam Bhaduri, J.

Bench: Single Bench

Advocate: P.R. Patankar and Utsav Mahiswar, for the Appellant

Final Decision: Disposed off

Judgement

@JUDGMENTTAG-ORDER

Goutam Bhaduri, J.

The appeal is against the award dated 25/09/2014 passed in Case No. 28/W.C. Act/2013 Fatal by the Commissioner, Workmen"s Compensation, Labour Court, Durg. By such award, a compensation of Rs. 4,36,800/- was awarded to the claimants. The claimants are the father and mother of deceased Birendra Kumar Sahu.

2. The brief facts of the case was that Birendra Kumar Sahu was working as labour under non-applicant No. 2 Jitendra Kumar Jain who was having the vehicle bearing No. C.G. 17-H/0540. On 7/11/2012 at about 11" O clock while he was loading rice bran in the vehicle, vehicle came in contact with the electricity wire and thereby he was electrocuted. It was stated that at the time of death, Birendra Kumar Sahu was 20 years old and was getting amount of Rs. 150/- per day as wages. On that ground, the claim for compensation was filed.

3. After adjudication, the learned Commissioner Workmen's Compensation passed an award on 25/09/2014 which reads as under:--

4. Learned counsel appearing on behalf of the appellants would submit only the payment of grant of interest making it conditional is against the law which has been settled by the Supreme Court in [The Oriental Insurance Company Ltd. Vs. Siby George and Others](#), in between Oriental Insurance Co. Ltd. v. Siby George and Ors. He submits that the payment of interest is consequence of the accident without going into delay or reasons for it. He therefore submits that irrespective of the reason amount of award should have carried interest.

5. This appeal was admitted on the following substantial question of law which reads as under:--

"Whether the Court below was justified in not granting interest upon the awarded amount from the date of application as sub section 3(a) of section 4A of the Employee's Compensation Act?"

6. Limited question falls for consideration before this court as to what would be the date for application of interest on the awarded sum. The Supreme Court in the case of Oriental Insurance Co. Ltd. (supra) has occasion to consider point for commencement of interest in case under the Workmen's Compensation Act. Supreme Court while taking into account the law laid down in case of [Oriental Insurance Co. Ltd. Vs. Mohd. Nasir and Another](#), and [National Insurance Co. Ltd. Vs. Mubasir Ahmed and Another](#), laid down that both the decisions were rendered in ignorance of earlier larger Bench decisions of the Supreme Court with respect to the issue in hand. In case of [Pratap Narain Singh Deo Vs. Srinivas Sabata and Another](#), issue has been directly answered. Paragraph 7 and 8 are quoted herein below:--

"7. Section 3 of the Act deals with the employer's liability for compensation. Sub-section (1) of that section provides that the employer shall be liable to pay compensation if "personal injury is caused to a workman by accident arising out of and in the course of his employment." It was not the case of the employer that the right to compensation was taken away under sub-section (5) of Section 3 because of the institution of a suit in a civil court for damages, in respect of the injury, against the employer or any other person. The employer therefore became liable to pay the compensation as soon as the aforesaid personal injury was caused to the workman by the accident which admittedly arose out of and in the course of the employment. It is therefore futile to contend that the compensation did not fall due until after the Commissioner's order dated May 6, 1969 under Section 19. What the section provides is that if any question arises in any proceeding under the Act as to the liability of any person to pay compensation or as to the amount or duration of the compensation it shall, in default of agreement, be settled by the Commissioner. There is therefore nothing to justify the argument that the employer's liability to pay compensation under Section 3, in respect of the injury, was suspended

until after the settlement contemplated by Section 19. The appellant was thus liable to pay compensation as soon as the aforesaid personal injury was caused to the appellant, and there is no justification for the argument to the contrary.

8. It was the duty of the appellant, under Section 4-A(1) of the Act, to pay the compensation at the rate provided by Section 4 as soon as the personal injury was caused to the respondent. He failed to do so. What is worse, he did not even make a provisional payment under sub-section (2) of Section 4 for, as has been stated, he went to the extent of taking the false pleas that the respondent was a casual contractor and that the accident occurred solely because of his negligence. Then there is the further fact that he paid no heed to the respondent's personal approach for obtaining the compensation. It will be recalled that the respondent was driven to the necessity of making an application to the Commissioner for settling the claim, and even there the appellant raised a frivolous objection as to the jurisdiction of the Commissioner and prevailed on the respondent to file a memorandum of agreement settling the claim for a sum which was so grossly inadequate that it was rejected by the Commissioner. In these facts and circumstances, we have no doubt that the Commissioner was fully justified in making an order for the payment of interest and the penalty."

7. The issue came up before the Supreme Court after amendment introduced in the Workmen's Compensation Act by Act No. 30 of 1995 wherein the amount of compensation and the rate of interest were increased with effect from 15/09/1995. Then taking reference of the law laid down in the case of [Kerala State Electricity Board and Another Vs. Valsala K and Another](#), by the three Judge Bench the negative answers were held on the authority of Pratap Narain Singh Deo, that the payment of compensation fell due on the date of the accident.

8. Further Para 2 and 3 of Kerala State Electricity Board (supra) is quoted herein below:--

"2. Various High Courts in the country, while dealing with the claim for compensation under the Workmen's Compensation Act have uniformly taken the view that the relevant date for determining the rights and liabilities of the parties is the date of the accident.

3. A four Judge Bench of this Court in [Pratap Narain Singh Deo Vs. Srinivas Sabata and Another](#), speaking through Singhal, J. has held that an employer becomes liable to pay compensation as soon as the personal injury is caused to the workmen by the accident which arose out of and in the course of employment. Thus, the relevant date for determination of the rate of compensation is the date of the accident and not the date of adjudication of the claim."

9. It is observed that Pratap Narain Singh Deo verdict was by four Judge Bench and Kerala State Electricity Board v. Valsala K. by the three Judge Bench of the Supreme Court. Therefore, following law laid down in decision of Pratap Narain Singh Deo it is held that payment of compensation would fall due from the date of accident.

10. Consequently, the law laid down in case of [National Insurance Co. Ltd. Vs. Mubasir Ahmed and Another](#), and [Oriental Insurance Co. Ltd. Vs. Mohd. Nasir and Another](#), which do not fall in line with the Pratap Narain Singh Deo (supra) which was of four Judge Bench the payment of interest would be payable from date of accident.

11. Consequently, the interest in the instant case would fall due from date of accident i.e. from 7/11/2012. Accordingly, it is directed that the respondent shall be liable to pay the interest from the date of accident i.e. from 7/11/2012.

12. In view of the above, question of law is answered accordingly that the interest is payable from the date of accident.

13. Accordingly, appeal stands disposed off with the above observation.

Headlines

Award of interest under Employee"s Compensation Act, 1923 is to be from date of accident.