

muchless substantial, is involved, so, no interference is warranted, in the impugned judgment and decree of the Ist appellate Court, in view of the law laid down by Hon'ble Apex Court in case **Kashmir Singh versus Harnam Singh & Anr. (7)**, in the obtaining circumstances of the present case.

(31) No other legal point, worth consideration, has either been urged or pressed by the learned counsel for the parties.

(32) In the light of aforementioned reasons, as there is no merit, therefore, the instant appeal is hereby dismissed as such.

J.S. Mehndiratha

Before Nawab Singh, J.

ANISH,—Appellant

versus

NASRUDIN KURESHI AND ANOTHER,—Respondents

FAO No. 2509 of 2011

16th January, 2012

Workman's Compensation Act, 1923 - S 3, 4 & 19 - Commissioner allowed compensation to the tune of Rs.81,497/- to be paid within 30-days of passing of the judgment and ordered that in case the amount is not so deposited, rate of interest @ 12% per annum from date of judgment shall be paid - Claimant challenged order of Commissioner on the point of grant of interest - Appeal partly accepted.

Held, That the appellant is entitled to amount of compensation of Rs.81,497/- from the date he sustained injury i.e. 30.11.2006 and would be entitled to interest thereon with effect from thirty days thereafter that is December 30th, 2006 till the amount of compensation was deposited by the Company.

(Para 8)

Further held, That the judgment of Hon'ble Supreme Court in Pratap Singh Nrain Singh Deo's case (supra) was also followed by this Court in Manphool Singh's case (supra). Thus, on the strength of these decisions, the net proposition is 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.

(Para 6)

Ashish Gupta, Advocate, *for the appellant.*

Suvir Dewan, Advocate for respondent No.2 – Oriental Insurance Company.

NAWAB SINGH J. (ORAL)

This claimant's appeal is directed against the judgment dated May 31st, 2010 passed by Commissioner under Workmen's Compensation Act, 1923, Mewat (for short 'the Commissioner'), whereby, he allowed compensation to the tune of Rs.81,497/- to be paid within thirty days of passing of the judgment, against respondents Nasrudin Kureshi and the Oriental Insurance Company, owner and insurer, respectively, of offending Canter No.RJ-14/GA- 3024 (for short 'the offending vehicle'). It was also ordered that in case the amount is not so deposited, rate of interest at the rate of Rs.12% per annum from the date of judgment shall also be paid on the amount awarded.

(2) The judgment passed by the Commissioner has been assailed only on the short point of grant of interest. It is contended by counsel for the appellant that interest should have been paid with effect from 'thirty days after the suffering of injuries' and not with effect 'from the date of adjudication'. In support of this contention, reliance has been placed upon the judgment

of the Hon'ble Supreme Court in **Pratap Narain Singh Deo versus Srinivas Sabata and Another (1)** and judgment of this Court in **New India Assurance Company Limited versus Manphool Singh and others (2)**.

(3) On the other hand, learned counsel for the Insurance Company has urged that the Commissioner awarded the interest correctly as it was to be paid from the date of adjudication of the claim. Reliance has been placed upon judgment of Hon'ble Supreme Court in **Kamla Chaturvedi versus National Insurance Company and others (3)**.

(4) When it comes to the question as to from which date the interest is to be awarded, the provisions of Section 4(a) of the Workmen's Compensation Act, 1923 (for short 'the Act') are crystal clear. Firstly, it has to be understood that the compensation becomes due to the employee and the employer becomes liable to pay it from the date on which injury is sustained by the employee or the death takes place, as the case may be. However, sub-section (3) of Section 4 of the Act provides a period of thirty days to the employer to make the payment of compensation. It will be wrong to argue that the compensation becomes due on the passing of the judgment by the Commissioner. A Division Bench of Hon'ble Supreme Court in Kamla Chaturvedi's case (supra) after relying upon the earlier judgment of the Supreme Court rendered in **National Insurance Co. Ltd. versus Mubasir Ahmed & another (4)**, held that compensation becomes due only when Commissioner passes order or an award. That view is in direct conflict with the ruling of the Four-Judges Bench of Hon'ble Supreme Court rendered in Pratap Narain Singh Deo's case (supra). In fact, Hon'ble Supreme Court completely negated the argument that compensation becomes due only when adjudication is done by the Commissioner and clearly held as under:-

“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

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- (1) (1976) 2 SCC 289
 - (2) 2009 ACJ 458
 - (3) 2009 (1) ACC 60 (SC)
 - (4) 2007(2) SCC 349

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 subsection (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."

(5) In **Kerala State Electricity Board and another versus Valsala K. and another etc. etc.** (5), a Three-Judges Bench of the Hon'ble Supreme Court after relying upon the judgment of Pratap Narain Singh Deo's case (supra) held as under:-

"5. Our attention has also been drawn to a judgment of the Full Bench of the Kerala High Court in *United India Insurance Co. Ltd. vs. Alavi*, 1998(1) KerLT 951 (FB) wherein the Full Bench precisely considered the same question and examined both the above noted judgments. It took the view that the injured workman becomes entitled to get compensation the moment he suffers personal injuries of the types contemplated by the provisions of the Workmen's Comensation Act and it is the

(5) AIR 1999 SC 3502

amount of compensation payable on the date of the accident and not the amount of compensation payable on account of the amendment made in 1995, which is relevant. The decision of the Full Bench of the Kerala High Court, to the extent it is in accord with the judgment of the larger Bench of this Court in Pratap Singh Narain Singh Deo v. Srinivas Sabata (AIR 1976 SC 222 : 1976 Lab IC 222) (supra) lays down the correct law and we approve it.”

(6) The judgment of Hon’ble Supreme Court in Pratap Singh Narain Singh Deo’s case (supra) was also followed by this Court in Manphool Singh’s case (supra). Thus, on the strength of these decisions, the net proposition is 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.

(7) In this view of the matter, the submission of the counsel for the appellant is convincing and is on the lines of the provisions made in the Act, and that of the counsel for the respondent Insurance Company is not tenable.

(8) For the reasons given hereinbefore, the appeal is accepted partly. The appellant is held to be entitled to the amount of compensation of Rs.81,497/- from the date, he sustained injuries, that is November 30th, 2006, and would be entitled to interest thereon with effect from thirty days thereafter, that is December 30th, 2006 till the amount of compensation was deposited by the Insurance Company.

A.K. Jain