

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 481 of 2003

With

CIVIL APPLICATIN NO. 1355 OF 2003

For Approval and Signature:

Hon'ble MR.JUSTICE N.G.NANDI

and

Hon'ble MR.JUSTICE M.S.SHAH

- =====
1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the concerned : NO
Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals?

G.S.R.T.C

Versus

VARSHABEN W/O DECD. RAJESHBHAIGORDHANBHAI

Appearance:

1. First Appeal No. 481 of 2003
MRS VASAVDATTA BHATT for Petitioner No. 1
MR ASHISH D OZA for Respondent No. 1
NOTICE SERVED for Respondent No. 1,2-7
SERVED BY RPAD - (N) for Respondent No. 1-5

CORAM : MR.JUSTICE N.G.NANDI

and

Date of decision: 31/03/2003

ORAL JUDGEMENT

(Per : MR.JUSTICE N.G.NANDI)

1. This appeal is directed against the judgment & award dated 30-3-2002 in M.A.C. Petition No. 83 of 1997 by M.A.C. Tribunal (Main) Bhavnagar, awarding interest at the rate of 12 % from the date of application till the realisation. It is stated by Ms. Vasavdatta Bhatt, learned advocate for the appellant that, this appeal is confined only to the rate of 12 % interest granted in the impugned award.

2. The dependents of Rajeshbhai Gordhanbhai filed the claim petition claiming compensation on account of death of said Rajeshbhai in a road accident which took place on 13-1-1997 at about 6.30 p.m. near Chamardi on Bhavnagar-Ahmedabad Highway. Vide order dated 24-2-2003 this Court admitted the appeal and directed to issue notice for disposal to the respondents.

3. Since the appellant is aggrieved by the rate of interest awarded in the impugned judgment, we do not enter into other questions and confine ourselves only to the rate of interest awarded by the Tribunal in the impugned award.

It is submitted by Ms. Vasavdatta Bhatt for the appellant that, in view of the judgment in the case of S. KAUSHNUMA BEGUM AND OTHERS VS. THE NEW INDIA ASSURANCE CO.LTD. AND OTHERS, 2001 AIR SCW 85, the Tribunal has erred in awarding interest at the rate of 12 % and that the rate of interest that can be awarded could be 9 %.

It is further submitted that in the concurring judgment in the case of BEZBARUAH VS. DY. DIRECTOR GENERAL, GEOLOGICAL SURVEY OF INDIA AND ANOTHER, 2003 AIR SCW 1266, it has been observed that 'the award of rate of interest on the amount of compensation is a matter of judicial discretion. The rate of interest must be just and reasonable depending upon the facts & circumstances of each case and taking all relevant factors, including inflation, change of economy, policy being adopted by the Reserve Bank of India from time to time, how long the case is pending, permanent injuries suffered by the victim, enormity of sufferings, loss of future income, loss of enjoyment of life etc. into consideration. No rate of interest is fixed under section 171 of M.V. Act,

1988..... Interest is compensation for forbearance or detention of money and that interest being awarded to a party only for being kept him out of money which ought to have been paid to him. No principle could be deduced nor any rate of interest can be fixed to have a general application in Motor Accident Claim Cases having regard to nature of provision under Section 171 giving discretion to Tribunal in such matter.....'.

In the instant case the accident took place on 13-1-1997 and the Claims Tribunal by the impugned judgment & award dated 30-3-2002 awarded interest at the rate of 12 %. Having regard to the fact that the accident took place on 13-1-1997, considering the period of pendency of the petition, and following the principle laid down in the case of Abati Bezbaruah (supra), in our opinion, the Tribunal has erred in awarding interest at the rate of 12 percent from the date of petition.

5. Having regard to the facts & circumstances of the present case, in our opinion, the appropriate rate of interest would be 9 % from the date of the petition till realisation/deposit of the amount. Present appeal is therefore required to be partly allowed, modifying the rate of interest granted in the impugned award reducing the same from 12 % to 9 % per annum.

6. In the result the appeal is partly allowed. The amount of compensation awarded by the Claims Tribunal shall carry the interest at 9 % per annum from the date of petition till deposit of the awarded amount. The rate of interest awarded in the impugned award is modified/reduced to this extent.

7. The appellant GSRTC shall deposit the remaining awarded amount together with interest at the rate of 9 % from the date of petition till deposit and the cost within eight weeks from today.

8. In view of the order in main appeal, civil application No.1355 of 2003 does not survive and is disposed of accordingly.

Dt: 31-3-2003

(N.G. Nandi, J)

(M.S. Shah, J)

/vgn

