

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**

**FIRST APPEAL No. 1457 of 1990**

**For Approval and Signature:**

**HONOURABLE MR.JUSTICE SHARAD D.DAVE**

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1 Whether Reporters of Local Papers may be allowed  
to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy  
of the judgment ?

4 Whether this case involves a substantial question  
of law as to the interpretation of the  
constitution of India, 1950 or any order made  
thereunder ?

5 Whether it is to be circulated to the civil judge  
?

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**BHIMSINGBHAI S BHABHOR - Appellant(s)**

**Versus**

**NATIONAL METAL CONTAINERS INDUSTRIES & 1 - Defendant(s)**

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**Appearance :**

MR DF AMIN for Appellant(s) : 1,  
MR BN KESHWANI for Defendant(s) : 1 - 2.

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**CORAM : HONOURABLE MR.JUSTICE SHARAD D.DAVE**

**Date : 05/05/2006**

**ORAL JUDGMENT**

By filing this appeal under Section 30 of  
the Workmen's Compensation Act, 1923, the appellant -  
original applicant has challenged the judgment and

award dated 5.1.1988 passed by the Commissioner for Workmen Compensation and Civil Judge (Senior Division), Godhra in Workmen Compensation Case No.11 of 1987 by which the learned Commissioner has partly allowed the application and directed the opponents to pay the amount of Rs.12,096/- with 6% interest p.a. From the date of the application i.e. 2.3.1987 till the date of the realization of the said amount jointly and severally and also held that the appellant is entitled to recover the same amount towards the compensation.

2. It can be noticed from the record that the appellant was workman of respondent No.1 who manufactures the steel drums at Dahod. The appellant was engaged by opponent No.1 at the monthly wages of Rs.360/- and that the appellant was working as a skilled labourer on a press machine. It can be further noticed that while the appellant was on duty, the incident in question had occurred by which the left hand of the appellant came under the press machine which resulted into the loss of last three fingers of his left hand. The appellant filed the application before the learned Civil Judge (S.D.) and Commissioner for Workmen Compensation at Godhra claiming the compensation from the respondents. The respondents herein filed the joint written statement at Exh.14 and raised various contentions.

3. Ultimately, the learned Civil Judge (S.D), Godhra, by his order dated 5.1.1988 partly allowed

the application filed by the appellant and directed the respondents to pay Rs.12096/- with the interest at the rate of 6% p.a.

4. Heard the learned advocates.

5. It is required to be noted that the Workmen's Compensation Act was enacted to provide for the payment by certain classes of employers to their workmen of compensation for injury by accident. Section 3 casts an obligation on the employer to pay compensation if personal injury is caused to a workman by accident arising out of and in the course of his employment. Section 4 provides for payment of an amount of compensation to be paid by the employer. Further, Section 4(A) obligates the employer to pay compensation as soon as it falls due failing which on the expiry of one month, he becomes liable to pay interest and penalty as provided therein. It can, therefore, be seen that the employer is under the obligation to pay compensation to the person who has suffered an injury while he is on duty and when the employer fails to pay the compensation within the prescribed period, he becomes liable to pay interest and penalty as may be imposed.

6. The learned Civil Judge (S.D.), recorded the finding that while the appellant was on duty, the accident in question had occurred, which resulted into the loss of three fingers of the left hand of the appellant. Mr.D.F.Amin, at the hearing, has

submitted that respondent No.1 (employer) failed to deposit the amount of compensation as has been awarded by the learned Civil Judge within one month as provided under Section 4(A) of the Workmen's Compensation Act.

7. In view of the aforesaid discussion, I am of the considered opinion that the learned Civil Judge has rightly awarded the compensation of Rs.12096/- with interest at the rate of 6% p.a., from the date of the application i.e. 2.3.1987 till the date of realization of the said amount and further directed the respondents to deposit the said amount within a period of two months from the date of the order i.e., 5.1.1988 and failing which the respondents will be liable to pay the interest at the rate of 18% p.a. From the date of the said application till the date of the realization of the said amount.

8. In the result, this appeal is dismissed. The respondents are directed to pay Rs.12096/- with interest at the rate of 6% p.a., as directed by the learned Civil Judge and further that if the respondents have not paid the aforesaid amount within a period of three (3) months as has been directed by the learned Civil Judge vide his order dated 5.1.1988, the respondents are directed to pay Rs.12096/- with interest at the rate of 18% p.a., from the date of the application till the realization.

( SHARAD D DAVE, J )

srilatha