

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR

JUDGMENT

SB Civil Misc. Appeal No. 2149/2008
Mahaveer Singh v. Shahbuddin & Ors

HON'BLE MR. JUSTICE ALOK SHARMA

31.3.2014

Mr. Ram Singh Rathore for the appellant
claimant

Mr. Sandeep Mathur for respondents non-
claimants No. 1 and 2

Mr. M.S Kachchawa for respondent No.3
Insurance Company

Heard the counsel for the appellant
claimant (hear-in-after 'the claimant') and
perused the impugned judgment dated 15.1.2008
passed by the Commissioner, Workmen
Compensation, Jaipur District Jaipur
(hereinafter 'the learned Commissioner').

Counsel for the claimant has
submitted that the claimant is aggrieved of
non-grant of interest on the compensation
amount of Rs. 76,244/- from the date of the
accident. He submits that the learned
Commissioner has erred in directing that
interest @ 12% would be payable only
effective 15.2.2008. It has been submitted
that the Hon'ble Supreme Court in **Saberabibi
Yakubhai Shaikha & Ors v. National Insurance**

Co. Ltd. & Ors, 2014(1) ACTC SC 122 has held that the compensation to an injured / dependants of a deceased employee at the hands of the employer is to be paid within 30 days from the date of accident and it was not so paid. He submits that in these circumstances the learned Commissioner ought to have directed that interest on the compensation of Rs. 76,244/- be paid effective 30 days from 9.5.1997- the date on which the claimant was injured in an accident while driving the bus owned by the respondents No.1 and 2 which was insured with the respondent No.3 National Insurance Company Limited.

I have heard the counsel for the claimant and perused the impugned judgment dated 15.1.2008.

From the said judgment it transpires that even though the accident took place on 9.5.1997, the claim petition was filed on 5.10.2006. The petition was on the face of it beyond the period of two years limitation as provided for under section 10 of the Employees Compensation Act, 1923 (hereinafter 'the Act of 1923') for filing of a claim petition. It is no doubt true that the

learned Commissioner has discretion to condone the delay in filing the claim petition. Yet it transpires from the judgment dated 15.1.2008 that no reasons for condonation of delay have been proffered before the learned Commissioner or considered by him. Be as it may the claim petition having been filed on 5.10.2006 after a delay of over nine years from the accident i.e 9.5.1997, in my considered opinion non-grant of interest on the compensation effective 30 days of the accident cannot be said to be unjust or arbitrary in the present case. Any other view in the facts of the case on payment of interest would be wholly unjust to the respondent insurance company as aside of the statutory provisions with regard to payment of interest, it also has an inherent equitable aspect.

The appeal is without any merit and stands accordingly dismissed.

(Alok Sharma) J

Sharma NK

"All corrections made in the judgment/order have been incorporated in the judgment/order being emailed."

NK Sharma, Sr.P.A