

***Before Nawab Singh. J.***  
**SHEELADEVI & ANOTHER,—Appellants**  
*versus*  
**VEER PAL & OTHERS,—Respondents**  
**FAO No. 1222 of 2010**

17th January, 2012.

***Workmen's Compensation Act, 1923 - S.4(3) - FAO against order of Commissioner under the Workmen's Compensation Act, 1923, filed whereby interest was to be paid by insurance company from date of passing of order till realization - Held, FAO allowed - Compensation becomes due to employee and the employer becomes liable to pay it from the date on which injury is sustained by the employee or death takes place.***

*Held*, that 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 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.

(Para 4)

*Further held*, that 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)

Saurabh Bajaj, Advocate, *for the appellants.*

R.C. Kapoor, Advocate, *for respondent No.3.*

**NAWAB SINGH.J (ORAL)**

This claimants' appeal is directed against the judgment dated June 24th, 2009 passed by Commissioner under the Workmen's Compensation Act, 1923 (for short "the Act"), Karnal whereby he awarded an amount of Rs.2,65,204/- as compensation to the claimants on account of death of their son Bitu, aged 18 years, who was a cleaner on offending canter bearing No. HR-38-J-8413 in a road accident on March 30th, 2005. The Commissioner also directed the National Insurance Company-insurer of the canter to deposit the amount awarded within 30 days from the date of passing of the order and in case of default, the insurance company was to pay simple interest at the rate of 12% on the amount of compensation till the date of realization.

(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 appellants 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 judgments of the Hon'ble Supreme Court in (i) **Pratap Narain Singh Deo versus Srinivas Sabata and Another (1)**, (ii) **Kerala State Electricity Board and another versus Valsala K. and another etc. etc. (2)** and of this Court, (iii) **New India Assurance Company Limited versus Manphool Singh and others (3)**; and (iv) Anish Nasrudin Kureshi and another FAO No.2509 of 2011 decided on January 16th, 2012.

(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 (4)**.

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- (1) 1976 (2) SCC 289  
(2) AIR 1999 SC 3502  
(3) 2009 ACJ 458  
(4) 2009 (1) ACC 60 (SC)

(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 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** (5) 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 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

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(5) 2007 (2) SCC 349

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.** (*supra*), 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 amount of compensation payable on the date of the accident and not the amount of compensation payable on account of the amenendment 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 judgments of Hon'ble Supreme Court in **Pratap Singh Narain Singh Deo's case** (*supra*) and **Kerala State Electricity Board's case** (*supra*) were also followed by this Court in **Manphool Singh's case** (*supra*) and **Anish'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 appellants 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 appellants are held to be entitled to the amount of compensation of Rs.2,65,204/- from the date of death of deceased, that is March 30th, 2005, and would be entitled to interest thereon with effect from thirty days thereafter, that is April 30th, 2005 till the amount of compensation was deposited by the Insurance Company.

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*J.S. Mehndiratta*

*Before Nawab Singh, J.*

**TARSEM SINGH AND OTHERS,—Petitioners**

*versus*

**VINOD KUMAR AND OTHERS,—Respondents**

**Civil Revision No. 4753 of 2005**

4th January, 2011

*Constitution of India, 1950 - Art.227 - Court Fees Act, 1870 - 2nd Schedule - Art.17(iii) - Suit filed by plaintiffs for declaration and permanent injunction - Sought declaration to the effect that sale deed executed by their father was null and void - Civil Court directed them to pay the ad valorem court fee - Order challenged by way of revision - Matter referred to large Bench - Division Bench laid down principle - Revision allowed - Held, if a person who is not a party to a document, seeks it, annulment, he is to pay court fee as per Art.17(iii) of Second Schedule of the Court Fees Act.*