

Brij Mohan Singh etc. v. State of Punjab and others
(S. S. Sandhawalia, C.J.)

State of West Bengal, etc. (1). After an elaborate discussion it was held *inter alia* that the alternative remedy referred to in Article 226(3) necessarily means a specific remedy provided as such by law and would not bring within its ambit a general remedy by way of a suit, or by moving the Supreme Court to invoke jurisdiction under Article 136 of the Constitution of India, for such relief. In so holding the learned Judges placed reliance on the Full Bench decision in *Abad Cotton Manufacturing Company v. Union of India*, (2) and an earlier Division Bench judgment of the Calcutta High Court in *Mahindra Mohan Sarkar v. I.T.C., Siliguri*, (3).

(4) It appears to us rather wasteful to tread the same ground all over again and it would amply suffice to say that we entirely agree with the view expressed in *Dabur (Dr. S. K. Burman) Pvt. Ltd.'s case* (supra). Following the same we would return the answer in the negative to the question formulated at the very beginning of this judgment.

(5) The reference on the legal point having been answered, the case would now go back to the learned Single Judge for decision on merits.

S.C.K.

Before S. S. Sandhawalia C.J. and Harbans Lal, J.

BRIJ MOHAN SINGH ETC.,—Appellants.

versus

STATE OF PUNJAB and others,—Respondents.

Letters Patent Appeal No. 390 of 1975.

February 15, 1979.

Motor Vehicles Act (IV of 1939)—Section 110-CC—Award of interest on compensation—Discertion vested in the Tribunal—Nature

(1) 1978 Labour and Industrial Cases 1575.

(2) 1977 Gujarat 113.

(3) 1977 Tax. L.R. 1537.

and scope of—Interest—Whether to run from the date of claim application.

Held, that it is evident from the language of section 110-CC of the Motor Vehicles Act, 1939 that a wide ranging discretion is now given to the Claims Tribunal, both as regards the rate of interest as also the date from which it is to run. There is no dispute that the cause of action in cases of accident arises at once from the date of accident itself. The claimants, therefore, obviously become entitled to the compensation with effect from that date. However, the legislature in its wisdom has provided for the earliest date for awarding the interest to be the making of the claim application. There appears to be no sound reason on principle which would ordinarily warrant the deferring of running the interest on the computed sum of the award beyond the said date. If it is once held that the entitlement of compensation arises onwards from the death or injury to the victim, then merely because the tardy process of law may sometimes inordinately delay the computations of the same should not rob the claimants from securing interest atleast from the date of making the claim. Of course, such a rule cannot be absolutely inflexible and invariable and special circumstances and reasons may exist which in a particular case disentitle the claimants to the grant of interest from the said date. The provision as it is framed does vest a modicum of discretion in the Tribunal. This can only be reasonably fettered by enunciating a sound principle in the exercise thereof. In a particular case if cogent reasons appear then to defer or even to deny the grant of interest may be sustainable, but in the total absence thereof it would hardly be justifiable. (Para 8).

Letters Patent Appeal under Clause X of the Letters Patent against the judgment of Hon'ble Mr. Justice M. L. Verma, dated 21st March, 1975 in F.A.O. No. 299 of 1971 affirming that of Shri K. C. Grover Motor Accident Claims Tribunal, Karnal dated 31st May, 1971 granting an award amounting to Rs. 26,000 to Smt. Kaushalya Devi and others while Shrimati Dwarki Devi Petitioner is granted an award amounting to Rs. 16,000 under section 1-A of the Fatal Accidents Act and Rs. 10,000 under Section 2 of the Fatal Accidents Act, against the respondent and the liability of the insurance company will be to the extent of Rs. 20,000 and the rest of the amount would be payable by the owners and the driver and further directing that the applicants would be entitled to interest at 6 per cent from the date of accident.

L. M. Suri, Advocate, for the Appellant.

I. S. Tiwana, Additional A.G., for the State.

R. S. Mongia, Advocate, for respondent No. 4.

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JUDGMENT

S. S. Sandhawalia, C. J.

(1) The nature and scope of the discretion vested in the Claims Tribunal by section 110 CC of the Motor Vehicles Act, 1939, to award interest on the compensation allowed is the only meaningful issue which falls for determination in this appeal under Clause 'X' of the Letters Patent.

2. The facts deserve notice only in so far as they are relevant to the issue aforesaid. Dewan Ranbir Singh, father of the appellants, whilst travelling in his car collided with a milk tanker on March 31, 1965, resulting in his death. The appellants and their mother Shrimati Dwarka Devi filed the claim application on May 5, 1965, seeking an award of Rs. 2,18,000 as compensation for the death of Dewan Ranbir Singh. The State of Punjab and other respondents contested the claim made on behalf of the appellants and their mother, as also the claim made by the dependants of the driver of the car. The Tribunal held that the accident was due to the negligent driving of the milk tanker by its driver and assessed the compensation payable to Shrimati Dwarka Devi at a sum of Rs. 26,000. Further it was held that the two appellants were not in any way dependant upon the deceased and were, therefore, not entitled to any compensation. The Tribunal, under section 110-CC of the Motor Vehicles Act, 1939 (hereinafter called 'the Act') further directed that interest at the rate of 6 percent would be payable on the aforesaid amount from the date of the accident. A number of appeals, both by the claimants and the contesting respondents, were preferred against the award of the Tribunal, which were consolidated, heard together and disposed of by the learned Single Judge by the judgment which is under appeal.

3. Before advertng to the finding arrived at by the learned Single Judge, it deserves highlighting that Shrimati Dwarka Devi, the mother of the appellants had died on May 24, 1971, during the pendency of the claim before the Tribunal, wherein the award was announced on May 31, 1971. The learned Single Judge relying on Rule 6 Order XXII of the Code of Civil Procedure held that as the death of Shrimati Dwarka Devi had taken place after the conclusion of arguments in the case, the proceedings did not abate. He further affirmed the findings of the Tribunal and held that both the

appellants were not entitled to any compensation in their own right in view of the fact that on the material date they were not at all dependent on their deceased father Dewan Ranbir Singh and further that at the time of his death he was as old as 70 years of age. However, as regards the compensation of Rs. 26,000 awarded to Shrimati Dwarka Devi the learned Single Judge found the same unexceptionable and affirmed the findings of the Tribunal.

4. Probably it is best to mention at this very stage that no meaningful challenge to the concurrent finding of the Tribunal and the learned Single Judge with regard to the quantum of compensation could be raised by Mr. L. M. Suri, appearing for the appellants. It would be wasteful to tread the same ground again and affirming the said finding we uphold the same.

5. The real arena of the controversy is with regard to the date from which the interest at the rate of 6 percent is to be given on the award. The Tribunal acted apparently under Section 110-C of the Act and directed that the claimants would be entitled to interest at the rate of 6 percent from the date of the accident. The learned Single Judge and in our view rightly, held that this was not warranted in view of the provisions of Section 110-C, but instead directed that the interest should run with effect from April 1, 1970. In arriving at this decision he was influenced by the fact that Section 110-CC was inserted in the Act by Central Act No. 56 of 1969, which came into force from March 2, 1970.

6. Mr. Suri on behalf of the appellants has forcefully contended that the cause of action truly accrues to the appellants from the date of the accident resulting in the death of the victim owing to the established negligence of the driver of the milk-tanker. It was submitted that once the quantum of compensation has been arrived at it must be held that the appellants became entitled to the same from the date of the death, but in view of the provisions of Section 110-CC the earliest date can be that of the making of the claim application and no reason has been given for deferring the running of interest beyond that date even.

7. As the argument must necessarily turn now on the express language of Section 110-CC of the Act, it is necessary to read the same:—

“110-CC. *Award of interest where any claim is allowed.*—
Where any Court or Claims Tribunal allows a claim for

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compensation made under this Chapter, such Court or Tribunal may direct that in addition to the amount of compensation, simple interest shall also be paid at such rate and from such date not earlier than the date of making the claim as it may specify in this behalf."

8. It is evident from the language of the aforesaid provision that a wide ranging discretion is now given to the Claims Tribunal, both as regards the rate of the interest as also the date from which it is to run. Issue, however, still arises with regard to the sound principle which should govern the exercise of this discretion. There is no serious dispute with the proposition that the cause of action in cases of this nature arises at once from the date of the accident itself. The claimants, therefore, obviously become entitled to the compensation with effect from that date. However, the legislature in its wisdom and perhaps rightly has provided for the earliest date for awarding the interest to be the making of the claim application. There appears to me no sound reason on principle which would ordinarily warrant the deferring of running the interest on the computed sum of the award beyond the said date. If it is once held that the entitlement of compensation arises onwards from the death or injury to the victim, then merely because the tardy process of law may sometimes inordinately delay the computation of the same should not rob the claimants from securing interest atleast from the date of making the claim. Of course such a rule cannot be absolutely inflexible and invariable and special circumstances and reasons may exist which in a particular case disentitle the claimants to the grant of interest from the said date. Nor can one loose sight of the fact that the provision as it is framed does vest a modicum of discretion in the Tribunal. This can only be reasonably fettered by enunciating a sound principle for the exercise thereof. In a particular case if cogent reasons appear then to defer or even to deny the grant of interest may be sustainable, but in the total absence thereof it would hardly be justifiable.

9. Apart from principle, it appears to me the precedent is equally available in support of the above view. It perhaps deserves recalling that Section 110-CC of the Act was brought on the statute book on March 2, 1970. Even prior thereto, there was no paucity of precedent wherein the interest was awarded on the compensation with effect from the date of the accident or the date of claim. After the insertion of the present provision there appears to be again a

plethora of precedent in which interest has been awarded from the date of the compensation application. In *Hanuman Dass v. Usha Ram and others*, (1), it has been observed as follows:—

“14. That the interest ought to be made payable on the compensation amount from the date of application, finds support from three decisions of three separate High Courts in (i) *K. G. Bhaskaran v. K. A. Thankamma* (2), (ii) *A. Harsha V. Pai v. Dr. K. V. Karna*, (3), (iii) *Sabitri Kumari Das v. State of Orissa*, (4) I respectfully concur in the view that has been taken in the aforesaid decisions and hold that the claimant is entitled to interest on the amount of compensation from the date of application to the date of payment at the rate of 6 percent as fixed by the Tribunal.”

10. The same view was taken by the Orissa High Court in *General Manager, Orissa Road Transport Company Ltd. v. Urmila Panigrahi and others*, (5).

11. In view of the aforesaid discussion, it appears to me that the appellants were clearly entitled to the grant of interest on the computed amount of compensation from the date of the application, namely, May 5, 1965 and there appears no ground at all for denying the same to them. I would accordingly modify the judgment of the learned Single Judge to this extent whilst upholding the same on the quantum of compensation awarded.

12. With the aforesaid modification the appeal is dismissed, but the parties are left to bear their own costs.

Harbans Lal, J.—*I agree.*

N.K.S.

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- (1) 1978 Accidents Claims Journal 310.
(2) 1973 A.C.J. 539.
(3) 1973 A.C.J. 57.
(4) 1975 A.C.J. 341.
(5) 1978 A.C.J. 352.