Ramesh Vs. Commissioner for Workmen's Compensation

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Court : Madhya Pradesh

Decided On : Oct-27-1999

Reported in : 2001ACJ1413; [2000(85)FLR754]; (2000)IIILLJ553MP

Judge : Shambhoo Singh, J.

Acts : Workmen's Compensation Act, 1923 - Sections 4A(3A)

Appeal No. : C.R. No. 774/1999

Appellant : Ramesh

Respondent : Commissioner for Workmen's Compensation

Advocate for Pet/Ap. : Shri. Thakur

Disposition : Petition allowed

Judgement :
ORDER

Shambhoo Singh, J.

1. This revision petition is directed against the order dated April 9, 1999 passed in W.C.C. 112/88 by Commissioner Workmen's Compensation, Indore. In this case the petitioner-applicant filed the claim case averring that he was engaged by the non-applicant as a labourer and while going down in the well with the help of rope

which broke and he fell down in the well and sustained injuries. He claimed compensation of Rs. 20,000/-. The non-applicant resisted the claim. The Commissioner awarded Rs. 25,327.50 with interest at the rate of Rs. 6% per annum as compensation and also imposed penalty of Rs. 10,000/-. However, the Commissioner vide order dated April 9, 1999 directed the non-applicant to deposit Rs. 25,387.50 with interest to be paid to the petitioner and further directed that the penalty amount of Rs. 10,000/- be credited to the Government in view of Section 4A(3-A) Workmen's Compensation Act (for short 'the Act'). The petitioner is challenging this direction.

2. Shri Thakur learned counsel for the Petitioner, submitted that the learned Commissioner committed error in directing penalty amount to be credited to the Government. He submitted that the provision for crediting the amount of penalty to the State Government came into force on September 15, 1995 while this accident took place on February 8, 1984, therefore, this amount could not be directed to be credited to the Government.

In the year 1984. Section 4A of the Act was as under:

'Section 4A: Compensation to be paid when due and penalty for default:

(1) Compensation under Section 4 shall be paid as soon as it falls due.

(2) In case where the employer does not accept the liability for compensation to the extent claimed, he shall be bound to make provisional payment based on the extent of liability which he accepts, and, such payment shall be deposited with the Commissioner or made to the workman, as the case may be, without prejudice to the right of the workman to make any further claim.

(3) Where any employer is in default in paying the compensation due under this Act within one month from the date it fell due, the Commissioner may direct that, in addition to the amount of the arrears, simple interest at the rate of six per cent per annum on the amount due together with, if in the opinion of the Commissioner there is no justification for the delay, a further sum not exceeding fifty per cent of such amount, shall be recovered from the employer by way of penalty.

According to Section 4A(3) if the employer committed default in paying the compensation due under this Act within one month from the date it fell due, the Commissioner could direct in addition to the amount of arrears, simple interest at the rate of 6% per annum on the amount due together with and if in the opinion of the Commissioner there was no justification for the delay, penalty could be imposed on the employer and penalty amount could be paid to the claimant. However by amending Act No. 30 of 1995 Section 4A was amended by inserting Sub-section (3-A). It is reproduced below:

'(3-A): The interest payable under Sub-section (3) shall be paid to the workman or his dependent, as the case may be, and the penalty shall be credited to the State Government'.

It is clear from the above that the penalty amount shall be credited to the State Government.

3. This amendment has not been given retrospective effect. As stated earlier, it came into force on May 15, 1995 and the accident had taken place in the year 1984 when this provision was not in existence. Therefore, the penalty amount could not be directed to be credited to the State Government. Therefore, the Commissioner committed error in directing penalty amount of Rs. 10,000/- to be credited to the Government.

4. In view of above, the impugned direction of crediting amount of Rs. 10,000/-to the Government is set aside. Thus, the revision is allowed.

No order as to costs.