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Manju Devi Vs. New India Assurance Co. Ltd. and anr.

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Court : Kolkata

Decided On : Sep-19-2008

Reported in : 2009ACJ2851

Judge : Bhaskar Bhattacharya and ;Rudrendra Nath Banerjee, JJ.

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

Appeal No. : F.M.A.T. No. 873 of 2008 and C.A.N. No. 6361 of 2008

Appellant : Manju Devi

Respondent : New India Assurance Co. Ltd. and anr.

Advocate for Def. : K.K. Das, Adv.

Advocate for Pet/Ap. : Krishanu Banik, ;Snehasis Jana and ;Sanchita Ghosh, Advs.

Judgement :

Bhaskar Bhattacharya and Rudrendra Nath Banerjee, JJ.

1. After hearing the learned Counsel for the parties and after going through the explanation given herein, we are convinced that the appellant was prevented by sufficient cause from preferring an appeal within the period of limitation.

2. We, therefore, condone the delay in preferring the appeal. Let the appeal be registered, if otherwise in form.

3. The application being C.A.N. No. 6361 of 2008 is allowed.

4. Since this appeal raises a pure question of law, we propose to hear out the appeal itself by treating it as on day's list.

5. This appeal is at the instance of the claimant under Workmen's Compensation Act and is directed against an award dated 31.3.2008 passed by the learned Commissioner, Workmen's Compensation (Third Court), West Bengal in Claim Case No. 197 of 2002 thereby awarding a sum of Rs. 3,84,280. The Commissioner awarded interest at the rate of 12 per cent per annum only in case of default of payment of such amount within 60 days from the date of that order till the date of realization of money.

6. The only question raised by Mr. K. Banik, the learned advocate appearing on behalf of the appellant is that the Commissioner, Workmen's Compensation erred in law in awarding interest in terms of Section 4-A(3) (a) of the Workmen's Compensation Act, only if the employer failed to pay the amount within the stipulated period mentioned in the award. According to Mr. Banik, irrespective of default on the part of the employer in making payment, it was the duty of the Commissioner to pass direction for payment of interest at the rate of 12 per cent per annum from the date of accident. In support of such contention, Mr. Banik relies upon the decision of the Apex Court in the case of Pratap Narain Singh Deo v. Shrinivas Sabata 1976 ACJ 141 (SC), where a Bench consisting of four Judges of the Supreme Court while interpreting the provision contained in Section 4-A(3) of the Workmen's Compensation Act, 1923 held that the amount assessed by the Commissioner falls due as soon as the personal injury was caused to the victim.

7. After hearing the learned Counsel for the parties and after going through the aforesaid decision of the Supreme Court in the case of Pratap Narain Singh Deo, 1976 ACJ 141 (SC), we find substance in the contention of Mr. Banik.

8. We, therefore, modify that portion of the award regarding interest by directing that in addition to the awarded amount, the appellant will also be entitled to get interest at the rate of 12 per cent per annum payable from after the expiry of one month from the date of accident till actual deposit of the amount before the learned Commissioner below. In this case, date of accident was 25.3.2002, therefore, interest will be payable from 25.4.2002.

9. The award is modified only to the extent indicated above.

10. The insurance company is directed to pay the enhanced amount within one week after reopening of the court after the puja vacation before the Commissioner, Workmen's Compensation.

11. The appeal is, thus, disposed of.

Xerox certified copies of this order, if applied for, be given to the parties within a week upon compliance with requisite formalities.

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