The Indian Hume Pipe Co., Ltd vs Their Workmen on 5 May, 1959

Equivalent citations: 1959 AIR 1081, 1959 SCR SUPL. (2) 948, AIR 1959 SUPREME COURT 1081, 1959-60 17 FJR 14 1959 2 LABLJ 357, 1959 2 LABLJ 357

Author: Natwarlal H. Bhagwati

Bench: Natwarlal H. Bhagwati, S.K. Das, P.B. Gajendragadkar, K.N. Wanchoo

PETITIONER:
THE INDIAN HUME PIPE CO., LTD.,

Vs.

RESPONDENT:
THEIR WORKMEN

DATE OF JUDGMENT:
05/05/1959

BENCH:
BHAGWATI, NATWARLAL H.
BENCH:
BHAGWATI, NATWARLAL H.
DAS, SUDHI RANJAN (CJ)
DAS, S.K.
GAJENDRAGADKAR, P.B.
WANCHOO, K.N.

CITATION:
1959 AIR 1081 1959 SCR Supl. (2) 948
CITATOR INFO :
R 1960 SC 571 (10)
E&D 1960 SC 826 (19)
R 1960 SC1006 (5)
RF 1966 SC1754 (11)
R 1972 SC 330 (10)

ACT:
Industrial Dispute--Bonus -- Available Surplus - Previous losses written off-Expenditure on parents written off--Debenture redemption reserve--If Proper Prior charges-Preference shares, return on-Calculations on All-India basis, whether proper.

HEADNOTE:

The appellant manufactured hume pipes and had factories in different parts of India, Pakistan and Ceylon. For determining the available surplus for the payment of bonus for the year 1954-55 the appellant claimed deductions as prior charges on account of (i) losses suffered on the Lahore factory written off, (ii) expenditure on patents written off, and (iii) debenture redemption reserve. It also claimed 6% return on the preference shares as return on paid up capital. The losses on the Lahore factory had been incurred in the previous years which had been carried forward from year to year and had been written off as irrecoverable in the bonus year. The amounts spent on the purchase of the patents which had been worked off in the previous years had also been written off in the bonus year. The appellant had issued debentures in 1942-43 redeemable in 1962-63 and claimed Rs. 3,50,000 as the annual contribution towards the redemption reserve. The appellant bad issued preference shares on which the shareholders, under the terms of the issue, were not entitled to more than 5%, but the appellant claimed a return of 6% on these hatres also as return on paid up

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capital as provided in the Full Bench formula. The dispute regarding bonus had been raised by the workmen of the Wadala factory alone, the workmen of other factories having settled the matter had been paid the agreed bonus. The respondents claimed that the bonus calculations should not be made on the basis of All-India figures but on the basis of the actual amounts paid or payable by the appellant under the settlements.

Held, that the losses on the Lahore factory and the patents written off could not be allowed as prior charges as they were merely debits in connection with the working of previous years. Nor could the amount on account of the debenture redemption reserve be allowed as a prior charge as no such charge was envisaged by the Full Bench formula of the Labour Appellate Tribunal ; but this amount could be taken into consideration when distributing the available surplus among the various interests entitled thereto. In determining the available surplus the Full Bench formula must be adhered to in its essential particulars as otherwise there would be no stability or uniformity of practice.

A deduction of more than 5% return on the preference shares could not be allowed as that was the maximum return which the shareholders could get on these shares. Even though the Full Bench formula mentioned 6% return on paid up capital it was not to be literally construed and the Tribunal could, if the circumstances warranted, increase or decrease the rate.

In calculating the actual amount of bonus to be paid calculations had to be made on the basis of All-India figures otherwise the respondents would have an advantage over those workmen with whom settlements had been made and would get larger amounts of bonus merely by reason of the fact that

the appellant had managed to settle the claims of those workmen at lesser figures.

JUDGMENT:

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 54 of 1958. Appeal by special leave from the Award dated January 14, 1957, of the Industrial Tribunal at Bombay in Reference (I. T.) No. 75 of 1956.

M. C. Setalvad, Attorney-Generalfor India and I. N. Shroff for the appellants.

N. V. Phadke, T. S. Venkataraman K. R. Sharma and K. R. Chaudhury, for respondent No. I and the Intervener. 1959. May 5. The Judgment of the Court was delivered by BHAGWATI, J.-This appeal with special leave challenges the award made by the Industrial Tribunal, Bombay, in Reference (IT) No. 75 of 1956 between the appellant and the respondents whereby the Industrial Tribunal awarded to the respondents 4 1/2 months' basic wages as bonus for the year 1954-55 (year ending June 30, 1955).

The appellant is a subsidiary of the Premier Construction Co., Ltd., and manufactures Hume Pipes. It has factories in different parts of India, Pakistan and Ceylon. The respondents are the workers employed in the appellant's factory at Antop Hill, Wadala, Bombay.

In October 1955, respondent I who are workmen represented by the Engineering Mazdoor Sabha made a demand for the payment of six-months' wages as bonus for the year 1954-55. The matter was also referred to the Conciliation Officer requesting him to initiate Conciliation Proceedings. The Conciliation Proceedings went on before the Conciliation Officer upto March 23, 1956, on which date both the parties arrived at and executed an Agreement to refer the matter to an Industrial Tribunal for adjudication. Accordingly, on April 30, 1956, both the parties drew up and signed a joint- application for referring the dispute for adjudication to a Tribunal and the Government of Bombay thereupon in exercise of the powers conferred by sub-s. (2) of s. 10 of the Industrial Disputes Act, 1947, by its order dated June 11, 1956, referred the following dispute to the Tribunal :-

> " DEMAND: Every Workman (daily rated) should be paid bonus for the year 1954-55 (year ending 30th June, 1955) equivalent to six-months' wages without it attaching any condition thereto ".

Respondent No. I filed their statement of claim before -the Tribunal on June 29, 1956. They alleged that the profits of the appellant during the year 195455 were higher than those during the year 1953-54 for which year the appellant had paid four months' basic wages as bonus. They also alleged that the wages paid to them by the appellant fell short of the, living wage and therefore the appellant should pay the in six months' basic wages as bonus for the relative year.

The appellant filed its written statement in answer on August 14, 1956. The appellant submitted that, after providing for " the prior charges " according to the formula laid down by the Labour Appellate Tribunal the profits made during the year under consideration did riot leave any surplus and tile, respondents were not entitled to any bonus. It denied that it bad made huge profits during the year in question and submitted that the profits made were not even sufficient to provide for " the prior charges ", etc. The Tribunal after hearing the parties came to the conclusion that even if payment of a bonus equal to 4 1/2 months' basic wages were made a fair surplus would be left in the hands of the appellant to the tune of Rs. 3.30 lacs and therefore awarded the same subject to the following conditions:-

> (a) Any employee who has been dismissed for misconduct resulting in financial loss to the company shall not be entitled to bonus to the extent of the loss caused.
>
> (b) Persons who are eligible for bonus but who are no longer in the service of the company on the date of the payment shall be paid the same provided that they make a written application for the same within three months of publication of this award. Such bonus shall be paid within one month of receipt of application provided that no claim can be enforced before six weeks from the date this award becomes enforceable.

Being aggrieved by the said award of the Tribunal, the appellant applied for and obtained from this Court special leave to appeal against the same under Art. 136 of the Constitution and hence this appeal.

The formula evolved by the Full Bench of the Labour Appellate Tribunal in Millowners' Association, Bombay v. Rashtreeya Mill Mazdoor Sangh, Bombay(1) is based on this idea that " as both labour and capital contribute to the earnings of the industrial concerti, it is fair that labour should derive some benefit, if there is a surplus after meeting " prior or necessary charges ". The following were prescribed as the first charges on (1) (1950) L.L.J. 1247 gross profits, viz., (1) Provision for depreciation ;(2) reserves for rehabilitation ; (3) a return at 6%on the paid up capital; (4) a return on the working capital at a lesser rate than the return on paid up capital and (5) an estimated amount in respect of the payment of income-tax. The surplus that remained after making the aforesaid deductions would be available for distribution among the three sharers, viz., the shareholders, the industry and the workmen [See Muir Mills Co., Ltd. v. Suti Mills Mazdoor Union, Kanpur (1) and Sree Meenakshi Mills Ltd. v. Their Workmen (2)]. This Full Bench -Formula has been working all throughout the country since its enunciation as aforesaid and has been found to be, in the main, fairly satisfactory. It is conducive to the benefit of both labour and capital and even though certain variations have been attempted to be made therein from time to time the main features thereof have not been substantially departed from. We feel that a formula which has been thus adopted all throughout the country and has so far worked fairly satisfactorily should be adhered,' to, though there is scope for certain flexibility in the working thereof in accordance with the exigencies of the situation.

In the working of the said formula, however, regard must be had both to the interests of capital and labour. In any given industry there are three interests involved, viz., the shareholders, the Company and the workmen and all these interests have got to get their proper share in the surplus profits ascertained after due provision is made for these "

> prior charges ". The shareholders may look to larger dividends commensurate with the prosperity of the industrial concern, the company would, apart from rehabilitation and replacement of buildings, plant and machinery, look forward to expansion and satisfaction of other needs of the industry and the workmen would certainly be entitled to ask for a share in the surplus profits with a view to bridge the gap between the wages earned by them and the living wages. All these interests (1) [1955]1 1,s.C.R. 991, 998.
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> (2) [1958] S.C.R 878, 884, have, therefore, got to be duly and properly provided for having regard to the principles of social justice and once surplus profits available for distribution amongst these respective interests are determined after making due provision for the " prior charges " as aforesaid the Industrial Tribunal adjudicating upon the dispute would have a free hand in the distribution of the same having regard, of course, to the considerations mentioned hereinabove. But so far as the determination of the surplus profits is concerned the formula must be adhered to in its essential particulars as otherwise there would be no stability nor uniformity of practice in regard to the same.

It maybe noted, 'however, that in regard to the depreciation which is a prior charge on the gross profits earned by a concern there is always a difference in the method of approach which is adopted by the income-tax authorities and by the industrial tribunals. It was pointed out by us in Sree Meenakshi Mills Ltd. v. Their Workmen (1) that the whole of the depreciation admissible under the Income-tax Act was not allowable in determining the available surplus. The initial depreciation and the additional depreciation were abnormal additions to the income-tax depreciation and it would not be fair to the workmen if these depreciations were rated as prior charges before the available surplus was ascertained. Considerations on which the grant of initial and additional depreciations might be justified under the Income-tax Act were different from considerations of social justice and fair apportionment on which the Full Bench Formula in regard to the payment of bonus to workmen was based. This was the reason why we held in that case that only normal depreciation including multiple shift depreciation, but not initial or additional depreciation should rank as prior charge. We approved of the decision of the Labour Appellate Tribunal in U. P. Electric Supply Co., Ltd. v. Their Workmen (2) in arriving at the above conclusion and disallowed the claim of the company there to deduct the initial or additional depreciation as prior charge in bonus calculations.

(1) [1958] S.C.R. 878.

(2) (1955) L.A.C. 659.

When this decision was reached we had not before us the decision of the Labour Appellate Tribunal in Surat Electricity Company's Staff Union v. The Surat Electricity Co., Ltd. (1) where a Bench of the Labour Appellate Tribunal had negatived the contention that if only the " normal "

> depreciation allowed by the Income-tax law were allowed a company would be able to recoup the original cost of the assets and observed that:
>
> " For the purpose of bonus formula the initial and additional depreciation, which are disallowed by that formula, must be ignored in fixing the written down value and in determining the period over which the normal depreciation will be allowed. The result will be a notional amount of normal depreciation ; but, as we have said repeatedly the bonus formula is a notional formula."

We have already expressed in the judgment delivered by us in Associated Cement Co., Ltd. v. Its Workmen (1) that for the purpose of the bonus formula the notional normal depreciation should be deducted from the gross profits calculated on the basis adopted in Surat Electric Supply Co. Staff Union v. Surat Electricity Co., Ltd. (1) and not merely the normal depreciation including multiple shift depreciation allowed by the income-tax authorities as stated in U. P. Electric Supply Co., Ltd. v. Their Workmen (3). It is well settled that the actual income-tax payable by the company on the basis of the full statutory depreciation allowed by the income-tax authorities for the relevant accounting year should be taken into account as a prior charge irrespective of any set off allowed by the Income-tax authorities for prior charges or any other considerations such as building up of income-tax reserves for payment of enhanced liabilities of income-tax accruing in future. It is also well settled that the calculations of the surplus available for distribution should be made having regard to the working of the industrial concern in the relevant (1) (1956) L.A.C. 443. (2) [1959] S.C.R. 925. (3) (1955) L.A.C. 659.

accounting year without taking into consideration the credits or debits which are referable to the working of the previous years, e.g., the refund of excess profits tax paid in the past or loss of previous years carried forward but written off in the accounting year as also any provision that may have to be made to meet future liabilities, e.g., redemption of debenture stock, or provision for Provident Fund and Gratuity and other benefits, etc., which, however, necessary they may be, cannot be included in the category of prior charges.

If regard be had to the principles enunciated above it is clear that the items of Rs. 1.14 lacs representing the Lahore factory balance written off, Rs. 0.34 lacs being patents written off, and Rs. 0.09 lacs shown as loss on sale of Tardeo property cannot be allowed as proper deductions from the gross profits for the purposes of bonus calculations. The first two items represented debits in connection with the working of previous years. Loss of the Lahore factory had been incurred during the three previous accounting years and had been carried forward from year to year and the only thing which was done during the year under consideration was that it was then written off as irrecoverable. The patents also had been worked off in previous years and the amounts spent in the purchase thereof were therefore to be written off but had reference to the working of the company during the previous years. The last item of Rs. 0.09 lacs was trivial and was therefore not pressed

with the result that all these three items were rightly added back in the calculations of the gross profits of the appellant and the figure of gross profits taken at Rs. 36.21 lacs was correctly arrived at by the Tribunal. The depreciation allowed by the Tribunal was Rs. 9.82 lacs which was the full statutory depreciation allowed by the Income-tax authorities. That should not have been done and the only depreciation allowed should have been the notional normal depreciation which was agreed between the parties before us at Rs. 6.23 lacs.

Working the figure of income-tax deducted by the appellant on the basis adopted in Shree Meenakshi Mills Ltd. v. Their Workmen (1) the income-tax on the gross profits of Rs. 36.21 lacs less the statutory depreciation allowed by the income-tax authorities, viz., Rs. 9.82 lacs would be equivalent to 7 annas in the rupee on Rs. 26.39 lacs, i.e., Rs. 11.55 lacs thus leaving a balance of Rs. 16.82 lacs from which the other prior charges would have to be deducted in order to ascertain the distributable surplus. 6% return on the ordinary share capital and 5% return on the preference share capital would come to Rs. 4.30 lacs. The appellant, however, claimed that even on the preference shares 6% return should be allowed and not 5% even though preference shareholders were not entitled to anything beyond 5% under the terms of issue. The appellant obviously relied upon the wording of the formula: " return at 6% on the paid up capital " and contended that the preference shares also being paid up capital it would be entitled to a return of 6% on the preference shares for the purposes of the bonus formula even though in fact it would have to pay only 5% return on the same. We cannot accept this contention. Even though the bonus formula is a notional one we cannot ignore the fact that in no event would the appellant be bound to pay to the preference shareholders anything beyond 5% by way of return. The Full Bench Formula cannot be so literally construed. There is bound to be some flexibility therein, the 6% which is prescribed there as the return on paid up capital is not inexorable, and the Tribunals could if the circumstances warrant vary the rate of interest either by increasing or decreasing the same. On the facts of this case however there is no warrant for allowing anything beyond 5% return on preference share capital and the amount of Rs. 4.30 lacs should therefore be deducted as another prior charge from the grsos profits of the appellant. 4% return on reserves used as working capital was calculated merely at a figure of Rs. 0.29 lacs worked out on a total figure of Rs. 7,42,139. The Tribunal (1) [1938] S.C.R. 876.

did not take into consideration another sum of Rs. 41,81,196 which represented the depreciation fund which according to the appellant had been used as working capital during the year. If that had been allowed a further sum of Rs. 1.67 lacs should have been added to Rs. 0.29 lacs and the total amount of 4% return on reserves used as working capital would have amounted to Rs. 1.96 lacs.

Two arguments were advanced against this contention of the appellant. One was that there was nothing like a depreciation fund, that it merely represented a credit item introduced in the balance-sheet as against the value of the fixed capital at its original cost and would have disappeared as such if the proper accounting basis had been adopted, viz., the fixed block bad been showed at its depreciated value after deducting the amount of depreciation from the original cost. Such book entries, it was contended, did not convert that credit item into a depreciation fund available to the company and there was therefore no basis for the contention that such a depreciation fund ever existed and could be used as working capital in the business. The other was that there was nothing on the record to show that such a depreciation fund, if any, had been, in fact, used as working capital

in the business during that year.

The answer furnished by the appellant in regard to both these contentions was that on a true reading of the balance- sheet Rs. 41,81,196 were reserves used as working capital, vide calculations in Exhibit C-12. Provision for depreciation was Rs. 1,10,29,954 and the paid up capital was Rs. 80,00,000 thus totaling to Rs. 1,90,29,954. The total capital block as shown in page 5 of the balance-sheet for the year ending June 30, 1955, was Rs. 1,48,48,758 and the working capital therefore was Rs. 41,81,196. This was apart from Rs. 7,42,139 which was the total of the three items at page 4 of the balance-sheet: Rs. 98,405 capital reserves, Rs. 4,73,734 other reserves and Rs. 1,70,000 provision for doubtful debts as also the investments, cash and bank balance. This being the true position it follows on the facts of the present case that this amount was available for use as working capital and the balance-sheet showed that it was in fact so used. Moreover, DO objection was urged in this behalf nor was any finding to the contrary recorded by the Tribunal.

We are, therefore, of the opinion that the reasoning adopted by the Tribunal was not correct and the appellant was entitled to 4% return on the reserves used as working capital including the sum of Rs. 41,81,196. The appellant was thus entitled to Rs. 1.96 lacs as the 4% return on reserves used as working capital and not merely Rs. 0.29 lacs as allowed by the Tribunal.

The provision for rehabilitation bad been claimed by the appellant at Rs. 1.10 lacs on the basis of 10% of the net profits relying upon para. 20 of the Report of the Committee on Profit Sharing in which the Committee had proposed that 10% of the net profits should compulsorily be set aside for reserves to meet emergencies as well as for rehabilitation, modernization and reasonable expansion. No evidence was at all led by the appellant before the Tribunal showing the cost of the machinery as purchased, the age of the machinery, the estimate for replacement etc., in order to substantiate this claim for rehabilitation and the appellant was content merely to rely upon this recommendation of the Committee on Profit-sharing. This was rightly considered by the Tribunal as insufficient to support the appellant's claim, though it allowed for rehabilitation, in addition to the statutory depreciation, the amount for which the appellant had actually made provision, viz., the sum by which the depreciation written off for the year exceeded the statutory depreciation (i. e., Rs. 10,00,000 minus Rs. 9,82,799Rs. 17,201). The amount was really small and did not affect the bonus to be awarded. The Tribunal, in fact, allowed the same, though it appears that in the absence of evidence of the nature above referred to even that sum of Rs. 0.17 lacs ought not to have been allowed. In this state of affairs it is really impossible for us to allow the appellant's claim for rehabilitation in anything beyond the sum of Rs. 0.17 lacs actually allowed by the Tribunal and the claim of the appellant for any further provision for rehabilitation must be disallowed for the purpose of the bonus calculations for the year under consideration. It will however be open to the appellant to claim higher rehabilitation for subsequent years if it can substantiate its claim by adducing proper evidence. In addition to these various sums allowed to the appellant by way of prior charges against the gross profits earned during the accounting year the Tribunal also allowed to the appellant Rs. 2.50 lacs by way of provision for debenture redemption fund. The claim of the appellant was for a sum of Rs. 3.50 lacs for the same and it arose under the following circumstances. The appellant had issued debentures of the value of Rs. 30 lacs in the year 1942-43 and they were redeemable in the year 1962-63. No annual provision had been made from profits for redemption of the same

inasmuch as until the year 1949 the appellant was not working at a profit. Such provision was made only thereafter. For the year 1950-51, the appellant made a provision for Rs. 75,000 for debenture redemption fund, for 1951.52, Rs. 1,50,000, for 1952-53 Rs. 1,50,000, for 1953-54 Rs. 75,000 and further provision had to be made for redemption of debentures in a sum of Rs. 24,50,000. In so far as 7 more years were left before the due date for redemption the appellant claimed Rs. 3,50,000 as the annual sum to be set apart, though as a matter of fact in the balance-sheet only a provision of Rs. 2,50,000 had been made by it for debenture redemption reserve. The Tribunal pointed out that when the appellant had in its accounts appropriated Rs. 2,50,000 for the debenture redemption fund the claim to have Rs. 3,50,000 for the purposes of bonus formula was clearly untenable. It however was of the opinion that a reasonable provision for redemption fund should be allowed as a prior charge and actually allowed the sum of Rs. 2,50,000 which had been actually provided for the purpose in the balance-sheet, negativing the contention of the respondents that no provision should be allowed for debenture redemption fund in the bonus formula.

We are of the opinion that the Tribunal was not justified in allowing the sum of Rs. 2,50,000/- for debenture redemption fund as a prior charge in the bonus calculations. The Full Bench Formula does not envisage any such prior charge. It is no doubt true that capital is shy and it would not be practicable for the industrial concern to raise large amounts by way of fresh debentures when they become due. It is also true that the debentures do not stand on a par with other debts of a concern because the debentureholders would in a conceivable situation be able to enforce their security by bringing the industry to a stand-still by taking over charge of the whole concern. It would therefore appear that the redemption of these debentures would be one of the primary obligations of the industrial concern and due provision has of necessity to be made for redemption thereof on due date. This however does not mean that in the calculations of the distributable surplus the provision for such redemption should be given the status of a prior charge, though of course that would be a relevant con- sideration while distributing the available surplus between the various interests entitled thereto. We are therefore of opinion that the Tribunal was wrong in allowing Rs. 2,50,000/- as a prior charge in the bonus calculations. This disposes of all the contentions which have been urged on behalf of both the parties and calculating the figure on that basis we arrive atthe following Rs. in lacs.

Gross Profit as per Tribudal's calculations		36.21
Less: Notional Normal Depreciation		6.23
	29.98	
Less: Tax @ 7 as. in a rupee		11.55
	18.43	
Less: 6% return on ordinary share capital and 5% on preference share capital		4.30
	14.13	

Less: 4% Return on reserves used as working capital:

7,42,139	29	
+ 41,81,196	1.67	
49,23,335		1.96

		12.17
Less:Provision for Rehabilitation		0.17
Available Surplus		12.00

This would bring the available surplusfor distribution to a sum of Rs. 12 lacs and this would be distributable amongst the shareholders, the company and the workmen concerned. It is not feasible to lay down any rigid formula as to what the proportion of such distribution amongst these various interests should be. The shareholders as well as the company would both be naturally interested inter alia in providing the debenture redemption reserves as also meeting the needs of the industry for further expansion. The workmen would no doubt be interested in trying to bridge the gap between their actual wage and the living wage to the extent feasible. This surplus of Rs. 12 lacs would have to be distributed amongst them having regard to the facts and circumstances of the case, of course bearing in mind the various considerations indicated above.

Before we arrive at the figure of the actual bonus which it will be appropriate in the circumstances of this case to allow to the workmen, we may advert to one argument which was pressed before us. on their behalf and that was that the bonus calculations should not be made on the basis of the All-India figures which were adopted by the Tribunal but on the basis of the actual amounts which the appellant had paid and would have to pay to the workmen concerned. It was pointed out that the respondents here were only the workmen in the Wadala Factory of the appellant. The appellant had, however, paid to the various workmen elsewhere as and by way of bonus sums varying between 4% and 29% of the basic wages for the year in question. The sum of Rs. 1,23,138/- only had been paid in full and final settlement to the workmen in some of the factories and the bonus calculations on an All-India basis would thus work to the advantage of the appellant in so far as they would result in saving to the appellant of the difference between the amounts to which those workmen would be entitled on the basis of the All-India figures adopted by the Tribunal and the amounts actually paid to them as a result of agreements, conciliation or adjudication. It was therefore contended that the calculations should be made after taking into account the savings thus effected by the appellant and only a sum of Rs. 1,23,138 /- which was the actual sum paid to those workmen should be taken into account and no more. We are afraid, we cannot accept this contention. If this contention was accepted the respondents before us would have an advantage over those workmen with whom settlements have been made and would get larger amounts by way of bonus merely by reason of the fact that the appellant had managed to settle the claims of those workmen at lesser figures. If this contention of the respondents was pushed to its logical extent it would also mean that in the event of the non-fulfilment of the conditions imposed by the Tribunal in the award of bonus herein bringing in savings in the hands of the appellant, the respondents would be entitled to take advantage of those savings also and should be awarded larger amounts by way of bonus, which would really be the result of the claimants entitled to the same not receiving it under certain circumstances-an event which would be purely an extraneous one and unconnected with the contribution of the respondents towards the gross profits earned by the appellant. The Tribunal was, therefore, right in calculating the bonus on an All-India basis.

By our order dated April 12, 1957, the appellant was ordered to pay to the respondents within a fortnight from the date thereof bonus for the year 1954-55 equivalent to two months' basic wages; that amount has already been paid and works out at Rs. 3.39 lacs on an All-India basis.

The only question which therefore survives is what further bonus, if any, would the respondents be entitled to from the distributable surplus of Rs. 12 lacs. The sum of Rs. 3.50 lacs required for building up the debenture redemption reserve is an all-engrossing need of the appellant and that is a factor which must of necessity be taken into consideration while arriving at the ultimate figure, particularly because such redemption of the debentures would enure not only for the benefit of the Company and its shareholders but also of the workmen employed therein. Having regard to all the circumstances of the case, we feel that an award of four months' basic wages as aggregate bonus for the year 1954-55 (which by the way was the bonus awarded for the previous year 1953-54 also) would give a fair share to the labour in the distributable surplus, leaving to the shareholders and the company a balance of Rs. 5.22 lacs to be utilised by them not only towards building up of the debenture redemption reserve but also for building up other reserves, which would be utilised for various other purposes indicated above. The appellant would no doubt get also the refund of the income-tax on the bonus payments made by it. This rebate would also go towards the fulfilment of the very same objectives, which would ultimately enure both for the benefit of the capital as well as labour.

We have, therefore, come. to the conclusion that the appellant should pay to the respondents, in addition to the two months' basic wages already paid to them in pursuance of this Court's order dated April 12, 1957, an additional sum equivalent to two months' basic wages by way of bonus for the year 1954-55 subject to the same conditions as were laid down in the award of the Tribunal above referred to, all the dates mentioned therein being calculated from the date of this judgment.

We accordingly allow the appeal, modify the award of the Industrial Tribunal to the extent mentioned above, but in the circumstances of the case we make no order as to costs, each party bearing and paying its own costs thereof. Appeal allowed.