

Shanti vs National Insurance Company on 17 February, 2025

Author: Sudhanshu Dhulia

Bench: Sudhanshu Dhulia

2025 INSC 234

NON-REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.2586 OF 2025
(@Special Leave Petition (C) No.1530 of 2022)

Shanti & Ors.

...Appellants

–Versus–

National Insurance Company

...Respondent

JUDGMENT

K. VINOD CHANDRAN, J.

Leave granted.

2. The only question raised in the appeal is as to the interest payable under the Employee's Compensation Act 1923. The Insurance Company's argument is that when there is a default in complying with Section 4A (2); mandating the Date: 2025.02.17 18:20:01 IST Reason:

C.A. No2586 of 2025 (@SLP (C) No.1530 of 2022) employer, disputing a liability, to make provisional payment based on the extent of liability, which payment has to be either deposited with the Commissioner or disbursed to the employee or legal representatives, the additional liability incurred on such failure cannot be mulcted on the insurer. Sub-section 3A provides that on default to pay the compensation within one month from the date it fell due, the employer shall pay, in addition to the amount of arrears, simple interest at the rate of 12 % per annum or at such higher rate not

exceeding the maximum lending rate prescribed for scheduled banks by sub-clause (a) and sub-clause(b) further provides a penalty not exceeding 50 % of such award amounts.

3. It is the submission of the learned counsel for the appellants that there is a statutory mandate to award interest under Sub-section 3(a) @ 12 % per annum and the discretion conferred on the Commissioner is only to the extent of granting a higher rate, which again should not C.A. No2586 of 2025 (@SLP (C) No.1530 of 2022) exceed the lending rate specified for scheduled banks.

4. The learned Standing Counsel for the respondent Insurance Company refutes the claim, on the contention that the insurer is not liable to indemnify the insured for the default committed by the insured. It is pointed out that in the present case the owner of the vehicle, was the father of the deceased and the contention was that the deceased was employed as a cleaner in the truck owned by the father. The mother and the other siblings were the claimants. There is a specific contention taken by the Insurance Company that there was no intimation about the accident, given to the Insurance Company. It is submitted that even if the liability is mulcted on the Insurance Company, they are entitled to recover the interest awarded, from the insured; since there is no question of indemnification of a default committed by the employer.

5. At the outset, we have to find that there is a mandate in so far as payment of 12 % interest if there is a default committed in making C.A. No2586 of 2025 (@SLP (C) No.1530 of 2022) the provisional payment. We cannot but notice that under Section 4A(3), the interest liability arises on default of the employer, in paying the admitted compensation due under the Act within one month from the date it fell due and if there is such default, necessarily interest shall run at the rate provided. That the interest runs from the date of the accident is declared by this Court in Pradeep Narain Singh Deo vs. Srinivas Sabate¹ and North East Karnataka Road Transport Corporation vs. Sujatha².

6. That the interest statutorily provided is 12 % comes out from the provision itself. The discretion is only in so far as awarding a higher rate of interest; exceeding the prescribed lending rates applicable to scheduled banks. The discretion is only in so far as applying a higher rate, ensuring that it does not exceed the lending rate prescribed for scheduled banks. Hence 12 % simple interest per annum necessarily has to be applied. The legislative intent is very clear insofar as Sub-clause 1 (1976) 1 SCC 289 2 (2019) 11 SCC 514 C.A. No2586 of 2025 (@SLP (C) No.1530 of 2022)

(b) of Section 4A(3) conferring a discretion on the Commissioner/Authority to impose a penalty not exceeding 50 % of the amounts awarded while no such discretion is available under clause (a). In the instant case, the Commissioner has awarded only 40 % penalty.

7. The question of whether the son's employment in the father's vehicle can inure to the benefit of the legal representatives, to raise a claim for compensation under the Act, cannot now be agitated. The claim petition was once dismissed on that ground and the claimants had approached the High Court. Annexure P³ appellate order found the claim to be maintainable and directed a fresh consideration based on the evidence led, as to the employer-employee relationship. The Commissioner under the Act has considered the evidence and found the employer-employee

relationship to be in existence leading to the award of compensation with 6 % interest per annum and also a further 40 % as penalty for the default committed.

8. We have to notice specifically that the Insurance Company was impleaded in the C.A. No2586 of 2025 (@SLP (C) No.1530 of 2022) claim petition and the direction was also to the non-applicant No.2; the Insurance Company, to pay the compensation, interest and penalty. There is no appeal filed by the Insurance Company against the said order and hence, there cannot be any claim raised as of now; for recovery of the interest amounts it is made liable under the award. The award of 6 % interest itself was confirmed by the High Court, in an appeal filed by the claimants; which appeal sought award of interest from the date of accident and also enhancement of the rate, the enhancement being declined. There was no appeal or cross appeal filed by the Insurance Company against the 6% interest awarded and in that circumstance, in a further appeal by the claimants filed before this Court, the Insurance Company can neither wriggle out of its liability to pay the interest amount as flowing from the award nor can it claim recovery from the insured.

9. On the above reasoning, we find the claim of the appellants to be substantiated by the statutory provision. We modify the award C.A. No2586 of 2025 (@SLP (C) No.1530 of 2022) insofar as the rate of interest @ 12 % per annum from the date of accident.

10. The appeal stands allowed in the above terms.

11. Pending application(s), if any, shall stand disposed of.

....., J.

[SUDHANSHU DHULIA], J.

[K. VINOD CHANDRAN] NEW DELHI;

FEBRUARY 17, 2025.

C.A. No2586 of 2025 (@SLP (C) No.1530 of 2022)