

Saberabibi Yakubbbhai Shaikh & Ors vs National Ins.Co.Ltd.& Ors on 2 January, 2014

Equivalent citations: AIR 2014 SUPREME COURT 1393

Author: Fakkir Mohamed Ibrahim Kalifulla

Bench: Fakkir Mohamed Ibrahim Kalifulla

REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 8 OF 2014

[Arising out of Special Leave Petition (Civil) No.8569 of 2013]

SABERABIBI YAKUBBHAI SHAIKH
& ORS.

... APPELLANTS

VERSUS

NATIONAL INSURANCE CO. LTD.
& ORS.

... RESPONDENTS

ORDER

1. Delay condoned.

2. Leave granted.

3. The appellants are the wife and the relatives of deceased driver who died in a road accident. The deceased driver was driving a truck bearing No. GJ-17-T-8607, which was owned by Yunusbhai Gulambhai Shaikh, respondent No.2 herein. The deceased was 36 years of age at the time of the accident. On 20th November, 1996, the appellants raised a claim of compensation for a sum of Rs.2,15,280/- and 12% interest therein from the date of accident by filing a claim application before the Workmen Compensation Commissioner/Labour Court. After passage of more than 16 years, the

wife and children of the deceased driver had still not received any compensation.

...2/-

4. The appellants filed a compensation application before the Workmen Compensation Commissioner/Labour Court on 20th November, 1996. The appellants made a claim of Rs.2,15,280/- and also penalty to the tune of 50% of the compensation i.e. a sum of Rs.1,07,640/-, thus, making the grand total of Rs.3,22,920/-. Respondent No.1- the Insurance Company, contested the compensation application. On 23th December, 2010, the learned Commissioner awarded compensation on account of death in the sum of Rs.2,13,570/- with 12% interest from the date of accident. The learned Commissioner also awarded Rs.1,06,785/- as penalty.

5. Aggrieved and dissatisfied with the aforesaid judgment and award passed by the learned Commissioner, the Insurance Company filed First Appeal before the High Court.

6. By judgment and order, dated 24th January, 2012, the High Court has partly allowed the First Appeal. The High Court directed the respondent No.1 - Insurance Company to pay interest on the amount of compensation from the date of ...3/-

adjudication of claim application i.e. 23th December, 2010 and not from one month after from the date of accident i.e. 21st August, 1996. A further direction was issued that the excess amount towards interest, if any, deposited by the respondent No.1 – Insurance Company be refunded to it. The judgment and order of the Commissioner for Workmen Compensation was modified to that extent.

7. In coming to the aforesaid conclusion, the High Court relied upon the judgment of this Court reported in Uttar Pradesh State Road Transport Corporation now Uttarakhand Transport Corporation versus Satnam Singh, (2011) 14 SCC 758, wherein it has been held that the interest was payable under the Workmen Compensation Act from the date of the Award and not from the date of accident.

8. Aggrieved by the aforesaid judgment of the Hgh Court, the appellants have filed the present appeal.

...4/-

9. Learned counsel for the appellants has submitted that the aforesaid judgment of the High Court is contrary to the law laid down by this Court in the case of Oriental Insurance Company Limited versus Siby George and others [(2012) 12 SCC 540].

10. We have perused the aforesaid judgment. We are of the considered opinion that the aforesaid judgment relied upon by the learned counsel for the appellants is fully applicable to the facts and circumstances of this case. This Court considered the earlier judgment relied upon by the High Court and observed that the judgments in the case of National Insurance Co. Ltd. v. Mubasir Ahmed

[(2007) 2 SCC 349] and Oriental Insurance Co. Ltd. v. Mohd. Nasir [(2009) 6 SCC 280] were per incuriam having been rendered without considering the earlier decision in Pratap Narain Singh Deo v. Srinivas Sabata [(1976) 1 SCC 289]. In the aforesaid judgment, upon consideration of the entire matter, a four-judge Bench of this Court had held that the compensation has to be paid from the date of the accident.

...5/-

11. Following the aforesaid judgments, this Court in Oriental Insurance Company Limited versus Siby George and others (supra) reiterated the legal position and held as follows:

“11. The Court then referred to a Full Bench decision of the Kerala High Court in United India Insurance Co. Ltd. v. Alavi and approved it insofar as it followed the decision in Pratap Narain Singh Deo.

12. The decision in Pratap Narain Singh Deo was by a four-judge Bench and in Valsala K. by a three-judge Bench of this Court. Both the decisions were, thus, fully binding on the Court in Mubasir Ahmed and Mohd. Nasir, each of which was heard by two Judges. But the earlier decisions in Pratap Narain Singh Deo and Valsala K. were not brought to the notice of the Court in the two later decisions in Mubasir Ahmed and Mohd. Nasir.

13. In the light of the decisions in Pratap Narain Singh Deo and Valsala K., it is not open to contend that the payment of compensation would fall due only after the Commissioner's order or with reference to the date on which the claim application is made. The decisions in Mubasir Ahmed and Mohd. Nasir insofar as they took a contrary view to the earlier decisions in Pratap Narain Singh Deo and Valsala K. do not express the correct view and do not make binding precedents.” ...6/-

12. In view of the aforesaid settled proposition of law, the appeal is allowed and the judgment and order of the High Court is set aside. The appellants shall be entitled to interest at the rate of 12% from the date of the accident.

13. No cost.

.....,J.

(SURINDER SINGH NIJJAR)J.

(FAKKIR MOHAMED IBRAHIM KALIFULLA) NEW DELHI JANUARY 02, 2014