

SUPREME COURT OF INDIA

L.R. Ferro Alloys Ltd.

Vs.

Mahavir Mahto

(S. R. Babu and S.N. Variava JJ.)

21.11.2000

ORDER

S. RAJENDRA BABU, J.

1. On March 23, 1995 an accident took place in the factory of the appellant at about 3 p.m. while respondent No. 1 (hereinafter referred to as the respondent) was pouring water for cooling the hot slab when the slab burst causing burn injuries on his face resulting in loss of sight in both eyes.

2. A claim was made by the respondent before the Commissioner under the Workmen's Compensation Act. The Commissioner determined the amount payable by way of compensation to the respondent. In addition he also quantified the penalty and interest payable for the delayed payment made by the appellant. The matter was carried in appeal to the High Court. There was no dispute regarding quantum of compensation payable, and all that was to be considered was whether the appellant is liable to pay the penalty and interest.

3. On that aspect of the matter the learned single Judge noticed that the compensation due under the statute had not been paid within one month from the date of accident and therefore appellant was liable to pay penalty and interest from the date the amount became due and payable which meant the date of accident or at the latest one month thereafter. Therefore, the liability of the appellant being evident in those circumstances, the learned Single Judge declined to interfere with the order under appeal. The matter was carried in appeal further to the Division Bench and that appeal was dismissed holding that it was not maintainable in view of the decision in Smt.Chhaya Rani v. Smt. Dhan Devi 1997(2) All PLR 147.

4. Considering the facts and circumstances of this case we do not think the question raised before us as to whether any appeal lay on the Letters Patent side, need not' be examined in this case.

5. The only contention put forth before us is .that the entire liability including penalty and interest will have to be reimbursed by the Insurance Company and this aspect has not been examined by the learned single Judge in the High Court and needs examination at our hands. In Ved Prakash Garg v. Premi Devi and Ors. , this Court after examining the entire scheme of the Act held that payment of interest and penalty are two distinct liabilities arising under the Act, while liability to pay interest is part and parcel of legal liability to pay compensation upon default of payment of that amount within one month. Therefore, claim for compensation along with interest will have to be made good jointly by the Insurance A Company with the insured employer. But, so far as the penalty imposed on the

insured employer is on account of his personal fault Insurance Company cannot be made liable to reimburse penalty imposed on the employer. Hence the compensation with interest is payable by the Insurance Company but not penalty. Following the said decision and for the reasons stated therein we modify the order made by the High Court to that extent. The appeal is allowed in part accordingly.