CGHC010373172022 2026:CGHC:38956

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 1311 of 2022

Smt. Nanda Soni W/o. Krishna Soni Aged About 35 Years R/o House No. 21/1022 Fokatpara Fafadih Raipur, Behind Bharat Seva Asharam Road Tahsil Raipur District Raipur, Chhattisgarh(Claimant)

--- **Appellant.**

Versus

M/s Suraj Pulses Industries Bhanpuri Industrial Area Bhanpuri Near Traffic Thana Khamtarai Raipur District Raipur, Chhattisgarh Through Its Partner (Employer)

--- **Respondent.**

With

MAC No. 1494 of 2022

M/s Suraj Pulses Industries, Bhanpuri, Industrial Area, Bhanpuri Near Traffic Police Station Bhanpuri, Police Station-Khamtarai, District- Raipur, Chhattisgarh Through Its Partner Shri Shiva Goyal, Aged About 29 Years, R/o 17, Jalashay Marg, Choubey Colony, Raipur, Chhattisgarh

---**Appellant.**

Versus

Smt. Nanda Soni W/o Krishna Soni Aged About 35 Years Caste- Sunaar, R/o House No. 21/1022, Fokatpara, Fafadih, Raipur, Behind Bharat Seva Ashram Tehsil And District- Raipur, Chhattisgarh

--- **Respondent.**

(cause title downloaded from CIS Periphery)

For Appellant/claimant *(Smt. Nanda Soni)*	**:**	Mr. Pravin Kumar Tulsyan with Mr. Vikas Patel, Advocates.
For Respondent/Employer *(M/s. Suraj Pulses Industries)*	**:**	Mr. Apurv Goyal, Advocate.

(Hon'ble Shri Justice Naresh Kumar Chandravanshi)

Judgment on Board
02/09/2026

1. Since both these appeals arise out of a common judgment, they have been heard together and are being decided by this common judgment.

2. For convenience, hereinafter the parties shall be referred to as per their status before the Court below: Smt. Nanda Soni shall be referred to as the "Appellant/Claimant" and M/s Suraj Pulses Industries shall be referred to as the "Respondent/Employer". Further, late Padum Bahadur Soni, who was the alleged employee of the Respondent, shall be referred to as the "Deceased Employee". Suraji Bai Soni, wife of late Padum Bahadur Soni, shall be referred to as the "Original Claimant", as she died during the pendency of the claim petition before the learned Labour Court.

3. Both appeals arise out of the judgment and award dated 13.09.2022 passed by the Commissioner under the Employees' Compensation Act, 1923, Labour Court No. 1, Raipur[1] in Case No. 45/E.C. Act/2015/Fatal (Smt. Nanda Soni v. M/s Suraj Pulses Industries), whereby compensation to the tune of Rs.6,12,360/- along with interest @ 10% per annum from the date of filing of the claim application was awarded in favour of the Appellant/Claimant.

4. MAC No. 1311 of 2022 (Smt. Nanda Soni v. M/s Suraj Pulses Industries) has been preferred by the Appellant/Claimant seeking enhancement of

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1 *hereinafter referred to as the "learned Commissioner cum Labour Court"*

compensation, higher rate of interest from the date of incident, and imposition of statutory penalty.

5. MAC No. 1494 of 2022 (M/s Suraj Pulses Industries v. Smt. Nanda Soni) has been preferred by the Respondent/Employer seeking quashing and setting aside of the impugned judgment and award.

6. At the outset, learned counsel appearing for the Respondent/Employer submitted that he does not press the three substantial questions of law that were initially formulated on 04.01.2023 in MAC No. 1494 of 2022. However, he submitted that he seeks to contest the additional substantial question of law framed by this Court on 16.04.2026, as it touches the core root of the matter.

7. In view of the aforesaid submission and upon due consideration, the three questions of law framed on 04.01.2023 are not required to be answered.

8. Brief facts essential for disposal of these appeals are that: (i) The deceased employee, Padum Bahadur Soni, was allegedly working under the Respondent, M/s Suraj Pulses Industries. Unfortunately, during the course of his employment, on 26.04.2015, a boundary wall of the factory collapsed upon him, due to which he sustained grievous injuries and succumbed to the same on the very same day. Subsequently, his wife, namely Suraji Bai Soni (Original Claimant), instituted a claim application under Section 22 of the Employees' Compensation Act, 1923 (hereinafter referred to as the "Act of 1923") claiming statutory compensation on account of the death of her husband.

   (ii) A written statement was filed by the Respondent/Employer resisting and denying the claim, primarily on the ground that the deceased employee was never employed under the establishment.

(iii) While evidence was being led by the parties, the Original Claimant, Suraji Bai Soni, died on 10.05.2021. Thereafter, her married daughter, namely Smt. Nanda Soni (Appellant/Claimant herein), moved an application for substitution. The Employer objected to the said application on the ground that being a married daughter, she cannot be treated as a "dependant" under the Act of 1923. However, the learned Labour Court, vide order dated 06.05.2022, allowed the application and substituted the Appellant/Claimant in place of the deceased Original Claimant.

(iv) Upon appreciating the oral and documentary evidence on record, the learned Labour Court allowed the claim application vide impugned judgment dated 13.09.2022 and awarded compensation to the tune of Rs. 6,12,360/- along with interest @ 10% per annum from the date of application, subject to default. Aggrieved by the said award, both parties have preferred separate cross-appeals.

9. In MAC No.1311 of 2022, filed by the Appellant/Claimant, this Court on 23.11.2022 had formulated the following substantial questions of law:

> **A**. “Whether, the commissioner for workman compensation labour court was justified for awarding the interest @ 10% from the date of application with condition that if respondent failed to pay the compensation amount within 30 days from the day of award instead of interest be awarded @ 12% from the date of incident without any condition?
>
> **B**. Whether, non imposing the penalty to the respondents is justified, specially no reason has been assigned?”

10. Subsequently, both appeals were clubbed together and vide order dated 16.04.2026, the following additional substantial question of law was formulated in MAC No. 1494 of 2022 (designated as Question 'C'):

> "**C.** Whether the award of compensation in favour of a person, who was not a dependent of the deceased employee, is legally sustainable under the provisions of the Employees' Compensation Act, 1923?"

11. Mr. Pravin Kumar Tulsyan, learned counsel assisted by Mr. Vikas Patel appearing for the Appellant/Claimant, submitted that though the Appellant is a married daughter, the original claim case under Section 22 of the Act of 1923 was instituted by her mother, late Suraji Bai Soni, who died during the pendency of the proceedings. As such, being the sole surviving legal heir, she cannot be deprived of the compensation legitimately claimed by her deceased mother. He further contended that the substitution of the Appellant was allowed by the learned Labour Court vide order dated 06.05.2022, which remained unchallenged by the Employer and attained finality, hence, the Employer cannot now raise such objection. Reliance was placed on the decision of the High Court of Judicature at Bombay in **Praveen Banu Nasir Khan & Anr. v. Vahaanvatti Sizers & Anr.** (Writ Petition No. 18070 of 2024 (paras 16 to 19). Regarding the grant of interest and penalty, learned counsel argued that statutory interest @ 12% per annum is mandatory from the date of the accident, and the learned Labour Court erred in granting interest only @ 10% per annum from the date of application, and also refused to impose penalty on the Employer. Hence, he prays to allow his appeal and reject the appeal of the Employer.

12. Per contra, Mr. Apurv Goyal, learned counsel appearing for the Respondent/Employer, vehemently opposed the submissions and contended that the Appellant/Claimant, Smt. Nanda Soni, is a married daughter who was substituted on 06.05.2022. Being a married daughter, she does not fall

within the definition of "dependant" as defined under Section 2(1)(d) of the Act of 1923, either in relation to the deceased employee or the Original Claimant. He placed reliance on the Division Bench decision of this Court in **Amarsai Amar Singh Netam (since dead) through proposed appellant Sukhchand v. M/s N.C. Nehar & Others (2011 SCC OnLine Chh 183)** and the Full Bench decision of the **Madras High Court in B.M. Habeebullah Maricar v. Periaswami & Others (1977 SCC OnLine Mad 58)**, to submit that Appellant, being a married daughter is not entitled for compensation benefit in the present claim case. Therefore, the impugned judgment is void ab initio and liable to be quashed.

13. I have heard learned counsel for the parties, considered their rival submissions, and perused the record with utmost circumspection.

14. Admittedly, late Suraji Bai Soni (Original Claimant), the widow of the deceased employee, instituted the claim petition under Section 22 of the Act of 1923. At that time, the present Appellant, Smt. Nanda Soni, was not impleaded as a party. She was substituted only after the death of her mother during the trial, vide order dated 06.05.2022. Though the Employer raised a specific objection regarding her dependency under the Act of 1923, the learned Labour Court rejected the objection and proceeded to pass an award in her favour.

15. Since the main dispute raised by the Employer relates to the maintainability of the claim at the instance of a married daughter, it is necessary to take note of definition of "dependant" as provided under Section 2(1)(d) of the Act of 1923, which reads thus:-

"2. Definitions.—

(1)In this Act, unless there is anything repugnant in the subject or context,**—**

***

(d)"dependant" means any of the following relatives of deceased employee, namely:

(i)a widow, a minor legitimate or adopted son, an unmarried legitimate or adopted daughter or a widowed mother; and

(ii)if wholly dependant on the earnings of the employee at the time of his death, a son or a daughter who has attained the age of 18 years and who is infirm;

(iii)if wholly or in part dependant on the earnings of the employee at the time of his death,-

(a)a widower,

(b)a parent other than a widowed mother,

(c)a minor illegitimate son, an unmarried illegitimate daughter or a daughter legitimate or illegitimate or adopted if married and a minor or if widowed and a minor,

(d)a minor brother or an unmarried sister or a widowed sister if a minor,

(e)a widowed daughter-in-law,

(f)a minor child of a pre-deceased son,

(g)a minor child of a pre-deceased daughter where no parent of the child is alive, or

(h)a paternal grandparent if no parent of the employee is alive;

Explanation.— For the purposes of sub-clause (ii) and items (f) and (g) of sub-clause (iii), references to a son, daughter or child include an adopted son, daughter or child respectively."

16. A plain reading of the aforementioned provision makes it apparent that a married daughter is not included as an "dependent" relative under Section 2(1)(d) of the Act 1923, which explicitly includes only an 'unmarried

daughter.' Although a married daughter can be treated as dependent only by establishing that she is adopted if married and a minor or if widowed and a minor, as prescribed in Section 2(1)(d)(iii) of the Act 1923. However, this is not the case here and no evidence has been discussed or adduced in this regard before the learned Labour Court.

17. In the case of **<u>Amarsai Amar Singh Netam since died through proposed appellant Sukhchand Vs. Ms. N.C. Nehar & Others (2011 SCC OnLine Chh 183)</u>**, a issue similar came up before the Division Bench of this Court for consideration. The relevant portion of the judgment is reproduced hereunder:-

> "**6.** In the matter of *Divisional Manager, New India Assurance Co. Ltd. vs. Sankar Tarai & others reported in 1996 ACJ 579* similar question has come up for consideration and the Court has held thus:-
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> > "4. There is substance in the plea of the insurer that major elder brother of a workman is not encompassed by definition of `dependant' as given in the Act. However, clause (d) of sub-section (1) of section 2 of the Act is crystal clear that minor brother or unmarried sister or a widowed sister comes within the umbrella of expression `dependant'. There being no dispute raised that claimant No.3 Manjulata Tarai, was a minor sister of the deceased, she for the purpose of the Act is a dependant and is entitled to compensation.."
> >
> > 7. In the matter of *Melepurath Sankunni Ezhuthassan v. Thekittil Geopalankutty Nair reported in AIR 1986 SC 411* the Hon'ble Supreme Court has held that `where a suit for defamation is dismissed and the plaintiff has filed an appeal, what the appellant-plaintiff is seeking to enforce in the appeal is his right t sue for damages

> for defamation and as this right does not survive his death, his legal representative has no right to be brought on record of the appeal in his place and stead if the appellant dies during the pendency of the appeal. The position, however, is different where a suit for defamation has resulted in a decree in favour of the plaintiff because in such a case the cause of action has merged in the decree and the decreetal debt forms part of this estate and the appeal from the decree by the defendant becomes a question of benefit or detriment to the estate of the plaintiff-respondent which his legal representative is entitled to uphold and defend and is, therefore, entitled to be substituted in place of the deceased respondent-plaintiff.

18. After referring to the aforesaid dictum, the Division Bench of this Court reached the following conclusion in Amarsai Amar Singh (Supra):-

> "9. Considering the facts and circumstances of the case and further considering the law laid down in this regard, we are of the opinion that the Commissioner has not committed any illegality in rejecting the application of the appellant for substitution. However, had there been an award in favour of the father of the appellant, the appellant herein could have claimed substitution in place of his father being the legal heir as the amount of award would have formed part of the estate of his deceased father. Accordingly, the argument advanced by learned counsel for the appellant does not appeal to us as right to sue does not survive to the appellant as right to sue was personal to the father of the appellant who was dependent on the deceased workman. Even otherwise, during the life time of appellant's father and pendency of the claim petition

> also, the appellant would not have got any right of compensation."

19. Reverting to the case at hand, the Appellant/Claimant, Smt. Nanda Soni, is undisputedly the married daughter of the deceased employee and late Suraji Bai Soni. She was substituted only upon the death of her mother while the claim proceedings were still pending adjudication. The right to claim statutory compensation under the Act of 1923 is limited to the statutory "dependants" of the deceased workman. Had an award been passed in favour of Suraji Bai Soni during her lifetime, the compensation amount would have formed part of her estate, and the Appellant could have claimed the same in the capacity of a legal representative. However, since the Original Claimant died during the pendency of the claim proceedings prior to the passing of any award, the cause of action did not survive to the Appellant, who is not a "dependant" under Section 2(1)(d) of the Act of 1923.

20. Consequently, this Court is of the considered opinion that the learned Labour Court committed a grave error in allowing the substitution and passing an award of compensation in favour of a person who is not a statutory dependant. Additional substantial question of law 'C' is, therefore, answered in the **Negative**, holding that the award of compensation in favour of the Appellant/Claimant is legally unsustainable.

21. As regards substantial questions of law 'A' and 'B' formulated in MAC No. 1311 of 2022 regarding the grant of interest @ 10% per annum from the date of application and non-imposition of penalty is concerned, it would apt to reproduce Section 4A(3) of the Act of 1923 which reads thus:

> “ 4A(3) where any employer is in default in paying the

compensation due under this Act within one month from the date it fell due, the commissioner shall:-

(a) direct that the employer shall, in addition to the amount of the arrears, pay simple interest thereon at the rate of twelve percent per annum or at such higher rate not exceeding the maximum of the lending rates of any scheduled bank as may be specified by the Central Government by notification in the Official Gazette, on the amount due; and

(b) if, in his opinion, there is no justification for the delay, direct that the employer shall, in addition to the amount of the arrears and interest thereon, pay a further sum not exceeding fifty per cent of such amount by way of penalty:

Provided that an order for the payment of penalty shall not be passed under clause (b) without giving a reasonable opportunity to the employer to show cause why it should not be passed."

22. In the case of **Shobha Vs. The Chairman, Vitthal Rao Shinde** in Civil Appeal No.1860 of 2022 decided by Hon'ble Apex Court on 11-03-2022, it has been held that:-

> "Therefore, on the death of the employee/ deceased immediately, the amount of compensation can be said to be falling due. Therefore, the liability to pay the compensation would arise immediately on the death of the deceased. Even as per Section 4A(2), in cases, where the employer does not accept the liability for compensation to the extent claimed, he shall be bound to make provisional payment based on the extent of liability which he accepts, and, such payment shall be deposited with the Commissioner or made to the employee, as the case may be, without prejudice to the

> right of the employee to make any further claim. Therefore, the liability to pay the compensation would arise from the date on which the deceased died for which he is entitled to the compensation and therefore, the liability to pay the interest on the amount of arrears/compensation shall be from the date of accident and not from the date of the order passed by the Commissioner. ...”

23. This issue is no more res integra as Hon’ble the Supreme Court in case of **Ajay Kumar Das Vs. Divisional Manager** (**2022 SCC OnLine SC 93)** has reiterated the law that compensation is payable within one month from the date when it fell due. Hon’ble the Supreme Court in paragraph 5 & 6 has held as under:

> “5........To set the record straight, the High Court has erred on merits as well. Section 4A of the Workmen’s Compensation Act 1923 stipulates that the Commissioner shall direct the employer to pay interest of 12% or at a higher rate, not exceeding the lending rates of any scheduled banks specified, if the employer does not pay the compensation within one month from the date it fell due. In Saberabibi Yakubhai Shaikh v. National Insurance Co. Ltd. [(2014) (2) SCC 298], this Court held that interest shall be paid on the compensation awarded from the date of the accident and not the date of adjudication of the claim in view of the decision of this Court in *Oriental Insurance Co. Ltd. v. Siby George [(2012) SCC 540]* where it was held that compensation would fall due from the date of the accident. Further, in the recent decision in P. Meenaraj v. P. Adigurusamy & Anr. (Civil Appeal No. 209/2022 decided on 6-1-2022), this Court reiterated that the applicant is entitled to interest from the date

> of accident while rejecting the submission that the award of interest should be after the expiry of 30 days from the date of accident. Thus, there was no legal basis for the High Court to delete the order of payment of interest.
>
> 6. For the above reasons, we set aside the direction contained in the order of the High Court dated 11 April 2018 by which the order for the payment of interest was deleted. The order for the payment of interest which was issued by the Additional Labour Commissioner-cum-Commissioner, Workmen Compensation shall together with the award of compensation stand restored."

24. In view of the aforesaid law laid down by Apex court, it is abundantly clear that, award of compensation falls due on the date of occurrence/accident and computation of compensation and interest begins from the date, it fell due i.e. the date of accident and not the date of award, till its realization.

25. Having considered the aforesaid law, the direction of the learned Commissioner awarding interest @ 10% from the date of application conditionally runs contrary to the statutory mandate of Section 4A(3)(a) of the Act, 1923, and interest ought to have granted @ 12% per annum that too from the date of of accident/death, however, in the present case no relief can be granted to the Appellant on this score. Once it is held that the Appellant, being a married daughter, does not fall within the ambit of 'dependant' under Section 2(1)(d) of the Act and the impugned award itself is held unsustainable on that core threshold ground, the questions of law regarding enhancement of interest and imposition of penalty are rendered purely academic. Consequently, Questions 'A' and 'B' warrant no

independent adjudication in favour of the Appellant/Claimant, particularly in light of the negative answer rendered to Question 'C'.

26. Ultimately, in view of aforesaid discussion and findings, **MAC No. 1494 of 2022** filed by the Respondent/Employer (M/s Suraj Pulses Industries) is **allowed** on the basis of answer given in Para 20 above i.e. answer to Substantial Question of Law 'C' formulated on 16.04.2026. The impugned judgment and award dated 13.09.2022 passed by the Commissioner under Employees' Compensation Act, 1923, Labour Court No. 1, Raipur in Case No. 45/E.C. Act/2015/Fatal is hereby **quashed and set aside**. **MAC No. 1311 of 2022** filed by the Appellant/Claimant (Smt. Nanda Soni) for enhancement of compensation and interest is hereby **dismissed**.

27. So far as the amount of compensation deposited by the Respondent/Employer before the learned Commissioner cum Labour Court is concerned, since the impugned judgment/award dated 13.09.2022 has been held to be unsustainable and set aside, the Appellant/Claimant is not entitled to receive or retain any portion of the compensation. Accordingly, it is directed that if the compensation amount (along with accrued interest, if any) is lying deposited with the learned Commissioner/Labour Court, the same shall be refunded/returned to the Respondent/Employer upon due verification in accordance with law.

28. Let the record of the learned Commissioner/Labour Court be transmitted back immediately along with a copy of this judgment for necessary compliance.

29. Pending application(s), if any, stand disposed of. No order as to cost(s).

Sd/-

(Naresh Kumar Chandravanshi)
Judge

Ajay