In the High Court of Punjab and Haryana at Chandigarh

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CM No.23435-CII of 2014 and
F.A.O. No.8599 of 2014

.....

Date of decision:24.4.2015

Sunil Dutt Nagpal alias Sunil Nagpal

.....Appellant

v.

Kulwant Singh and others

.....Respondents

....

Coram : Hon'ble Mr. Justice Inderjit Singh

.....

Present: Mr. Vijay Lath, Advocate for the appellant.

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Inderjit Singh, J.

CM No.23435-CII of 2014:

For the reasons mentioned in the civil miscellaneous application, the delay of 181 days in filing the appeal is condoned.

The civil miscellaneous application stands disposed of.

F.A.O. No.8599 of 2014:

Sunil Dutt Nagpal alias Sunil Nagpal-appellant/claimant has filed this appeal against Kulwant Singh-owner of Truck bearing No.PB-10-BK-0795 (hereinafter referred to as 'the offending vehicle') and National Insurance Company Limited-insurer of the offending vehicle challenging the impugned award dated 18.11.2013 passed by the Motor Accident Claims Tribunal, FTC, Rupnagar (hereinafter referred to as `the Tribunal'), whereby on account of the motor vehicle accident, a compensation of ₹2,80,000/- has been awarded in favour of the claimant-appellant along with interest @6% per annum from the date of claim petition, in case the payment is made within three months from the date of award. In default, the claimant would be entitled to interest @8% per annum from the date of claim petition till payment.

I have heard learned counsel for the appellant and have gone through the record.

The brief facts of the case are that on 11.4.2011, at about 9.15 p.m., claimant Sunil Dutt along with Sukhwinder Pal was coming from Chandigarh side on his Maruti Wagon-R car at the normal speed. When they reached near Village Charheri, a truck bearing No.PB-10-BK-0795 came from opposite direction, driven by its driver rashly and negligently and struck the same in the car of the claimant/appellant, as a result of which the claimant and Sukhwinder Pal received grievous injuries. They were taken to Civil Hospital, Kurali. Thereafter, the claimant was referred to P.G.I., Chandigarh. The claimant spent more than ₹2 Lacs on his treatment, special diet etc. The claimant filed claim petition under Section 166 of the Motor Vehicles Act for compensation of ₹7 Lacs with interest thereon for the damage to the car.

The Tribunal after appreciating the evidence passed award of ₹2,80,000/- in favour of the claimant/appellant as compensation along with interest @6% per annum from the date of claim petition, in case the payment is made within three months from the date of award. In default, the claimant would be entitled to interest @8% per annum from the date of claim petition till payment.

At the time of arguments, learned counsel for the appellant/ claimant argued only on one point that interest awarded by the Tribunal is on lower side. The appellant has taken loan from the Bank and was paying interest @ 15% per annum. Therefore, the interest should be enhanced.

After hearing learned counsel for the appellant and after going through the record, I find that PW-3 Shingara Singh stated that he assessed the loss of car bearing registration No.PB-74-4263. The assessment report is Ex.PW.3/A. When cross-examined, he has stated that as per the receipt dated 16.4.2009, their firm has received ₹2,60,570/- vide Ex.P.2 and ₹5,000/- vide Ex.P.3 and had delivered Maruti Wagon-R to customer Sunil Dutt. The Tribunal after considering the evidence of PW-3, who assessed the loss to the tune of ₹2,80,000/-, awarded this compensation amounting to ₹2,80,000/- The Tribunal has awarded the interest @6% per annum from the date of claim petition, in case the payment is made within three months from the date of award. In default, the claimant would be entitled to interest @8% per annum from the date of claim petition till payment. In no way, awarding of interest can be held at a lower side. The interest cannot be granted @ 15% if any loan etc. has been taken by the claimant/appellant, as argued. In other words, the interest is to be awarded by the Tribunal keeping in view the facts and circumstances and as per law. It cannot be connected with the Bank loan. For example, if the plea of the appellant is taken as correct, then it means that no interest is to be awarded where the party is not paying any interest. Therefore, the argument of learned counsel for the appellant has no merit.

Hence, from the award, I find that the findings recorded by the Tribunal are correct and as per law, which do not require any interference from this Court and the same are upheld.

Therefore, finding no merit in the appeal, the same is dismissed.

April 24, 2015. **(Inderjit Singh)**
Judge

hsp