

In the High Court of Punjab and Haryana at Chandigarh

Civil Revision No.6444 of 2014

Date of Decision:1.2.2016

Pepsu Road Transport Corporation

---Petitioner

vs.

Manjeet Kaur and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Harsh Aggarwal, Advocate
for the petitioner

Mr. R.P.Kansal, Advocate
for respondent Nos. 1 and 2

Mr. Sanjeev Goyal, Advocate
for respondent No. 4

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether the judgment should be reported in the Digest?

Rekha Mittal,J.

The present petition has been directed against the orders dated 2.4.2011 (Annexure P-7) and 7.5.2014 (Annexure P-9) passed by the Motor Accident Claims Tribunal, Sangrur (for short “the Tribunal”) in Execution No. 09 dated 19.2.2014 titled “Manjeet Kaur and another vs. C.Sukhi Singh

and others”.

Counsel for the petitioner contends that Bir Singh @ Biru died in an accident which took place on 23.3.1995. A claim petition for compensation was filed by his widow, daughter and mother under the Motor Vehicles Act, 1988 (for short “the Act”) which was dismissed in default on 6.3.2000. Thereafter one after the other application was filed for restoration of the proceedings. An application was filed on 7.2.2002 for recalling orders dated 2.5.2001 and 7.12.2001 and that was dismissed on merits vide order dated 12.3.2004. The respondents/claimants filed Civil Revision No. 3962 of 2004 which was allowed vide order dated 18.7.2006 and the claim petition was restored. After restoration of the claim petition, the date of petition was mentioned as 9.5.2007. The claim petition was allowed on 14.11.2008 by the Tribunal and compensation of Rs. 4,15,000/- alongwith interest was awarded. The challenge to the award passed by the Tribunal did not come out to be successful as FAO No. 9313 of 2008 was dismissed on 23.12.2008. The petitioner deposited an amount of Rs. 25,000/- vide DD No. 199113 dated 11.12.2008 under Section 173 of the Act, another amount of Rs.4,48,405/- was paid vide cheque No.737685 dated 12.1.2011 and Rs. 38,956/- vide cheque No. 737828 dated 9.2.2011 during the execution proceedings and as such a total sum of Rs.5,12,361/- was paid to the claimants towards satisfaction of the award. It is further argued that the respondents/claimants continued with the execution proceedings and got an ex parte order dated 2.4.2011 whereby the date of filing of petition was amended from 9.5.2007 to 9.5.1996. On the basis of amendment, the respondents filed a fresh execution petition dated 19.2.2014

claiming interest for the past 11 years with effect from 9.5.1996 to 9.5.2007. The Tribunal has issued warrants for attachment of bank account of the petitioner-corporation vide order dated 7.5.2014. It is vehemently argued by counsel for the petitioner that as the claimants themselves were responsible for non-progress of the proceedings from March 2000 till July 2006 as initially the petition was dismissed in default thereafter application for restoration was dismissed in default and even application filed for review of those orders was dismissed for non-prosecution under Order IX Rule 2 CPC on 7.12.2001, a serious prejudice has been caused to the petitioner in allowing interest to the respondents at the rate of 9% per annum with effect from the date of petition till the passing of the award in the year 2008. It is further submitted that had the petitioner been given notice of the application for correction of date of filing of the petition from 9.5.2007 to 9.5.1996, the petitioner could raise their grievance that in case such an amendment is to be allowed, the claimants should not be held entitled to pendente lite interest with effect from 1996 till 2006 or at least with effect from March 2000 to 18.7.2006 when the petition was ordered to be restored.

Counsel for the contesting respondent would urge that as the claim application was ordered to be restored by this Court vide order dated 18.7.2006 (Annexure P-4), the same would relate back to the date of petition, therefore, no fault can be found in the impugned order correcting the date of petition as 9.5.1996 in place of 9.5.2007, wrongly recorded in the award.

I have heard counsel for the parties and perused the records.

No doubt, once the petition filed on 9.5.1996 was ordered to be

restored in the year 2006, the order of restoration would relate back to the date of filing of the petition. At the time of hearing the parties for decision of the application for compensation, the Court awarded interest by treating the petition to be filed on 9.5.2007. The petitioner complied with the award passed by the Tribunal by depositing the amount as stated in para 06 of the petition. The petitioner did not get an opportunity to be heard on the question if the respondents/claimants shall be entitled to get interest at the rate fixed by the Tribunal with effect from 1996 onwards despite the fact that delay of six years with effect from March 2000 till July 2006 is statedly attributable to the respondents/claimants. In this view of the matter, I find merit in the contentions of the petitioner that the petitioner in the circumstances of the present case is entitled to be heard in the matter while considering the application filed by the respondents/claimants for correction. As a result, the order dated 2.4.2011 passed by the Additional District Judge, Sangrur is set aside with a direction to the Tribunal to decide the matter afresh after hearing the applicants and the respondent (petitioner herein).

As the order dated 2.4.2011 has been set aside by this Court, as a natural corollary, order dated 7.5.2014 also stands set aside.

Disposed of in the aforesaid terms.

(Rekha Mittal)
Judge

1.2.2016
paramjit