

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CR No.2583 of 2016(O&M)
Date of Decision: 31.10.2017**

Satbir Singh

...Petitioner

Versus

Krishana and others

... Respondents

CORAM:-HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present:Mr. Rishab Lohan, Advocate for
Mr. R.N. Lohan, Advocate
for the petitioner.

Mr. Zorawar Singh, Advocate
for respondents No.1,3 to 6.

RAJ MOHAN SINGH, J.

[1]. At the very outset, it can be noticed that keeping in view the nature of controversy involved in the present case, the matter was referred to Mediation and Conciliation Centre of this Court, however proceedings before the Mediation and Conciliation Centre could not fructify and the case was referred back to this Court for disposal on merits.

[2]. Petitioner is aggrieved of order dated 25.01.2016 passed by Motor Accident Claims Tribunal, Narnaul (for short 'the Tribunal') to the extent of rejecting the claim of interest on the amount deposited w.e.f. 1994 onwards till final recovery.

[3]. A claim petition was filed before the Tribunal by Smt. Krishana and others i.e. respondents No.1 to 6 against the petitioner. The said claim petition was allowed vide award dated 03.06.1994 holding the claimants to be entitled for a recovery of Rs.1,53,600/- along with interest @ 12 % per annum from 29.01.1993.

[4]. Petitioner filed FAO No.1272 of 1994 in the High Court against the said award dated 03.06.1994. The appeal was admitted on 14.07.1994 and the awarded money was ordered to be paid to the claimants on their furnishing security to the satisfaction of the Tribunal for its return in case the appeal is accepted.

[5]. The respondents withdrew the amount by furnishing security to the satisfaction of the Tribunal. The appeal i.e .FAO No.1272 of 1994 filed by the petitioner was ultimately allowed vide order dated 06.11.2012. Para Nos.3, 4 and 5 of the aforesaid order are reproduced hereasunder:-

“3. Although strict standard of proof may not be necessary in a case where the fact of accident and the involvement of the vehicle had been denied, the evidence given by the claimants shall be such as to evoke confidence that they were speaking the truth. Even the FIR does not reveal that the informant had seen the accident. It was merely narrating the incident as roadside accident involving the death of a person. It had been stated that it was a case of an unknown vehicle causing the death of the motorcyclist.

Harish Chand, the informant in FIR, was not examined but even his examination would have made no difference, if he was not himself an eyewitness to the accident. The whole case therefore hinged on the evidence of PW3 and PW4, who had no reason to give as to why they did not give a complaint to the police and how they knew the identity of the deceased or the driver of the tractor. I am not prepared to go as far as to state that the enmity of Gur Dayal's family members to the owner of the tractor had been established, but I would still observe that when the police had also given evidence that their own investigation showed that the tractor had not been involved in the accident, then the Court must have looked for worthwhile evidence to obtain an inference that the appellant's tractor had been involved in the accident. Without any discussion on the quality of evidence led, the Tribunal had merely found that the appellant's tractor ought to have been involved in the accident. There was simply no material on the basis of which such an inference could have been made. The finding of the Tribunal would therefore require to be set aside and accordingly set aside.

4. There is no representation on behalf of the claimants to inform whether there has been any recoveries made during the course of the proceedings. The claimants shall be at liberty to approach the Government for appropriate compensation in the manner provided under Section 163 of the Motor Vehicles Act. If any such claim is made, the same shall be entertained by the State without taking any objection regarding the bar of limitation.

5. The award of the Tribunal is set aside and the appeal is allowed exonerating the appellant from any liability as cast by the Tribunal.”

[6]. In view of above, the petitioner is entitled to the amount paid by him along with appropriate interest accrued thereon. Since the principal amount has already been deposited by the respondents, therefore, the petitioner is entitled to interest @ 6% per annum from the date of deposit of the amount by the petitioner with the claimants till the payment of the amount made to the petitioner by the respondents.

[7]. It is true that the power of restitution has to be exercised to ensure equity, fair play and justice for both the parties. The payment of the award was made by the petitioner as per liability arising out of the award passed by the Tribunal. The payment of said amount was however subject to decision of FAO No.1272 of 1994. With the acceptance of aforesaid FAO No.1272 of 1994, the amount paid by the petitioner has to be treated nucleus for accruing reasonable interest payable to the rightful claimants after the decision of the appeal by the High Court. The amount has to be treated as a deposit made by the petitioner to the credit of the award of the Tribunal. In the event of reversal of the award, petitioner is entitled to refund of the amount along with reasonable interest, which in my considered opinion has to be 6% per annum from the date of deposit of such amount by the petitioner to the credit of the award till the date on which the said amount has been deposited/paid by the

respondents. Necessary calculations are required to be made by the Executing Court/Tribunal.

[8]. As per report of Tehsildar Kanina, a sum of Rs.2,11,963/- including Rs.1,86,400+25,563/- has already been deposited. Necessary consequences shall follow after making necessary calculations and consequential amount shall be paid to the petitioner in accordance with law.

[9]. In view of above, impugned order dated 25.01.2016 passed by Motor Accident Claims Tribunal, Narnaul is set aside. This revision petition is allowed in the manner as suggested above.

31.10.2017

prince

Whether Reasoned/Speaking

Whether Reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No