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

**C.R. No. 3561 of 2017
Date of decision : 25.08.2017**

Surinder Sharma ...Petitioner

versus

IFFCO TOKIO General Insurance Co. Ltd. ...Respondents

CORAM: **HON'BLE MS. JUSTICE RITU BAHRI**

Present: Mr. Abhimanyu Kalsi, Advocate
for the petitioner

Mr. Ankur Gupta, Advocate for the respondent.

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<u>RITU BAHRI , J. (Oral)</u>

Challenge in the present writ petition under Article 227 of the Constitution of India is to order dated 06.04.2017 passed by learned Motor Accidents Claim Tribunal, Panchkula (for short 'the Tribunal') in execution proceedings.

Learned counsel for the petitioner submits that the petitioner was arrayed as respondent-driver in a claim petition bearing No. MACP/1600024/2009 before the Tribunal. The petitioner was proceeded ex parte despite the fact that he engaged a counsel. Thereafter, an award dated 25.11.2011 was passed fastening the entire liability of Rs.3,44,000/- upon him. Subsequently, he filed an application under Order 9 Rule 13 CPC against ex parte order, which was dismissed. Petitioner filed C.R. No. 7325-2014 against the said dismissal order and this Court ordered the petitioner to deposit a sum of Rs.3,00,000/- to show his bona fides before hearing the petitioner on merits. The petitioner duly complied with order dated 26.02.2015 (Annexure P-1) and deposited Rs.3,00,000/- before the Registry of this Court. The revision petition was subsequently allowed on 25.01.2016 and petitioner was given an opportunity to lead evidence before the Tribunal. The petitioner led his evidence and was successfully exonerated and the entire liability was fastened upon the respondent-Insurance Company vide order dated 27.04.2016. The petitioner was then given a right to recover the amount deposited by him in compliance of the orders of this Court. Thereafter, petitioner filed an execution application before the same Tribunal seeking recovery of the amount deposited by him along with interest @ 9% per annum from the date of till its realization. However, the learned Tribunal vide order dated 06.04.2017 declined the prayer of the petitioner qua interest and directed the Insurance Company to only refund the amount deposited by the petitioner before the High Court, which was further ordered to be disbursed to the claimants subject to them furnishing indemnity bonds before the Tribunal.

Learned counsel submits that once the petitioner was fully exonerated of the liability, his amount was bound to be refunded along with interest as the same was otherwise to be paid by the respondent-Insurance Company.

Learned counsel for the respondent-Insurance Company does not dispute the factual position that the petitioner has been exonerated of the liability fastened upon him by the learned Tribunal.

Now the question for consideration before this Court is whether the petitioner is entitled to the interest on the amount of Rs.3 lacs, deposited by him before the Registry of this Court.

This Court after hearing learned counsel for the parties and going through the record is of the view that the petitioner is entitled to be awarded interest @ 9% on the amount of Rs.3 lacs deposited by him which was further disbursed to the claimants, in view of the judgment of Hon'ble the Supreme Court in a case of ***Kumari Kiran through her father Harinarayan vs. Sajjan Singh and others, 2015(1) SCC 539,*** as the petitioner has been exonerated of the liability fastened upon him and originally it was the Insurance company who had to pay the compensation amount to the claimants and now once the petitioner has been exonerated, the Insurance Company is liable to refund the amount along with 9% interest.

In view of the above, the present petition is allowed and order order dated 06.04.2017 passed by the Tribunal is set aside. The Insurance Company is directed to pay interest @ 9% per annum, on the amount of Rs.3 lacs deposited by the petitioner, from the date of deposit till the payment is made.

25.08.2017 **(RITU BAHRI)**
G Arora **JUDGE**

Whether speaking/reasoned ***Yes***
Whether reportable ***No***